

CIVIL GOVERNMENT
STATE AND FEDERAL

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CIVIL GOVERNMENT

STATE AND FEDERAL

An Exposition of Our Polity

BY

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PREFACE.

This book is the outgrowth of practical suggestions from teachers actually engaged in the work of the class-room, covering a period of fifteen years. Its aim is:—

The treatment of its subject in the light of the tendencies and the trend of events in the present day;

The emphasis of those points which have an especially vital interest and which are salient in connection with matters of pressing and growing importance;

The subordination of material relating to issues long since definitely settled, and whose interest is chiefly historical; and,

The concrete presentation of the subject by means of tables, diagrams, and topical analyses.

Something, too, may be said of the plan of arrangement. This is such that portions of the subject may be taught as early as the eighth grade.

Starting with the family, a knowledge of whose organization, laws, and functions is already fixed in the mind of the youngest child; and with the school, under whose government the child comes at an age so tender that school laws and regulations are apprehended almost before the development of the power of independent thought—the transition is easy to an understanding of the local government of town or township (the first formal civil government met with), a knowledge of whose workings is absorbed almost unconsciously. By a demonstration of the relations of, and by analogies between, the administrative functions of family, school, local, county, and State forms of government, the way is prepared for the understanding of government in a larger sense; for an appreciation of the rights and duties of citizenship; and for the study and analysis of the Constitution of the United States and of the form and functions of the system of government based upon that instrument, as, through the great departments of government, that system comes into contact with the individual citizen.

The advantages, for mature minds, of a strictly topical treat-

ment of the Constitution are obvious. But extended experience in teaching this subject has led to the conclusion that youthful minds can most easily and most profitably be brought to a comprehension of the subject, an appreciation and understanding of the principles involved, and a firm grasp of the reasoning and philosophy underlying our institutions — by first studying the Constitution in the exact order in which it is written, sentence by sentence, and almost word by word; and then by a careful study of a skeleton topical analysis, such as is here provided, driving home and clinching the results so obtained.

Throughout the work an endeavor is made to give a clear and understandable exposition of the legislative, judicial, and executive functions of government, their application to the individual citizen, and, as well, to bring out and enforce a knowledge of the rights and duties of citizenship, in its relations to government and to fellow citizens.

Various reports of the State and Federal courts, and other works of reference have been freely consulted, as have the treatises of Chancellor Kent and other authorities on this and kindred subjects. To all of these indebtedness is gratefully acknowledged.

W. A. M.

W. S. H.

September, 1910.

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PART I.
CIVIL GOVERNMENT.



INTRODUCTORY.

Government means authority. *Civil Government* means civil authority; that is, the authority by which we are ordinarily governed through laws in time of peace. Civil government is opposed in meaning to Military government, or government by martial law, which sometimes prevails in time of war or insurrection. Every government, whether simple and unorganized, like that of the family, or complex and organized, like that of the United States, possesses three classes of powers: the legislative, or law-making power; the judicial, or law-applying, power; and the executive, or law-enforcing, power. By a *law* is meant a rule of conduct made by some superior authority; which rule we must obey, or receive punishment for our disobedience.

All people in the United States, strangers and travellers as well as citizens, owe respect and obedience:—

First, To the Constitution and to the laws of the United States;

Second, To the constitution and the laws of the State in which they may be living.

Subordinate to these, they are bound to obey the ordinances of the county, and of the town, township, civil district, village, or city in which they reside. All are, therefore, subject to four forms of organized civil authority. Citizens owe obedience to the place of their residence, to their county, to their State, and, above these, to the United States. The laws of these several authorities are so adjusted and distributed that they neither overlap nor conflict.

In addition to the above, those who live in a family are bound to conform to its rules and usages; while almost all children are under the government of some school.

Thus a large proportion of the people of this country are subject to the regulations of no less than six forms of government:—

- (1) The family.
- (2) The school (those attending school).
- (3) The township (civil district, town, village, or city).
- (4) The county.
- (5) The State.
- (6) The United States.

CHAPTER I.

THE FAMILY.

A Family comprehends all those who live in one household and under one head or manager: it may include parents, children, servants, guests, boarders, and lodgers.

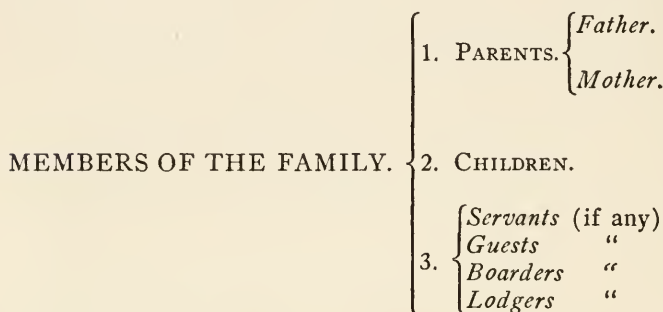
The first type of government with which we come in contact is our home, or family, government. This was the earliest of all forms of government. In many respects it is like every other kind of government; it has legislative, judicial, and executive powers. But, unlike most formal governments, these powers are not distributed among different departments: they are all retained in the hands of the parents or of the head of the family.

The purpose of the family is the continuation and improvement of the human race; and the happiness and prosperity that comes from the aid and support which members of the family give each other in striving for the common good. The welfare and training of the child is the especial care and charge of the family. It is for this that parents govern the conduct of their children; protect them from evil and danger; and cherish, clothe, feed, and educate them. Children are taught to obey, in order that they may, in their turn, be prepared to govern. A child has the right to education and support from the parent; but in return for these, it owes obedience. In this life, every right imposes a corresponding duty.

In ancient times, a father's authority over his children was far greater than is the case today. Among the Hebrews and the Romans, a father had the legal right to sell his children

into slavery; or even to take their lives, as in the case of the proposed sacrifice of Isaac by Abraham. On the continent of Europe, at the present day, parents have far greater control over their children than do parents in English-speaking countries. In many countries of continental Europe, a man is not allowed to marry before reaching the age of thirty, unless he have the consent of his parents.

The family arrangement may be shown by the following diagram:—



RIGHTS AND DUTIES OF CHILDREN.

<i>Rights.</i>	<i>Duties.</i>
1. To support during childhood. 2. To protection. 3. To food, clothing, shelter, and medical attendance. 4. To kind, polite, and considerate treatment. 5. To advice and guidance. 6. To reasonable opportunity for play and recreation. 7. To the opportunity to obtain an education.	1. To treat parents and others with respect and kindness. 2. To assist their parents. 3. To comfort them when in affliction. 4. To love, honor, and obey them. 5. To care for and support them in old age. 6. To be polite and kind to older people. 7. To refrain from bad language and from bad habits.

BRANCHES OF FAMILY GOVERNMENT.

<i>Legislative.</i>	<i>Judicial.</i>	<i>Executive.</i>
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These functions are all combined in the parents, and exercised by them.

OFFICERS OF THE FAMILY.

<i>Name.</i>	<i>Term.</i>	<i>Compensation.</i>	<i>Rights.</i>
<i>Father and Mother.</i>	Until child becomes of age.	1. The love and reverence of the child. 2. The child's honorable success in life. 3. To be cared for in sickness and in old age by the child.	1. To the custody of the child. 2. To have authority and control over the child in all ordinary affairs of life, until the child becomes of age. 3. To make and enforce proper rules; to decide when these have been broken; and, to punish their infraction. 4. To the earnings of the child. <i>Duties.</i> 1. To make such rules and regulations as are reasonable and proper. 2. To be just and consistent in their decisions and firm in their rulings. 3. To study the well-being and best interests of the child. 4. To bring the child up to a useful and honorable life, by training and example. 5. To provide the child with suitable food, shelter, clothing, and with medical attention. 6. To see that the child is properly educated.

Note.—*The rules of the family are the laws of the family.*

CHAPTER II.

THE SCHOOL.

By School, is usually meant a place where pupils are assembled for instruction by one or more teachers. A *school district* may be any portion of a county, or an entire county, under one executive board or management. Whether comprising only a portion of a town or township, a whole town or township, a city, or an entire county, the school district is the administrative unit of the educational system. Commonly, each town or township is divided into several sections, and in each section is located a free public school. Sometimes, as in New Jersey, the management of all the schools in a township is placed in the hands of a township board of education, and, when advisable, the schools are consolidated, in one or more buildings located at central and convenient points. All cities, and almost all incorporated boroughs, even though they cover but a portion of the township or county, have separate and independent control of their own schools.

All children within the limits of the school age are entitled to attend the public schools. The usual age for entering school is five or six years. After enrollment in a school the child is subject to its discipline and answerable to its rules. *The rules of the school are the laws of the school.*

The school stands between family and civil government, linking the two together, and sharing in the nature of each. From the home, where he is subject to the rules, or laws, of the family, the child comes to the school, where he is subject to its rules, or laws,—thus learning early one of the most

important and profitable lessons of life — that law and order are necessary for maintaining individual liberty, safety, peace, and property. Apart from the regulations and safeguards of law, true liberty cannot exist.

The sole function of the public schools, and the purpose for which they are supported (partly by local taxation and partly by the State), is the development of intelligence and character, by training and education, through which, alone, good citizenship is possible under a free government. A state is powerful and influential in proportion to the intelligence of its citizens; and citizens are intelligent and prosperous, in direct proportion to their training and education.

By the members of the school is usually understood only those who are enrolled on the school registers; but, in a larger sense, all those children who are within the school age are members of the school. It is for their benefit and their guidance in the pursuit of knowledge that free public schools have been established by the State.

The school is conducted in an orderly and systematic manner by the enforcement of rules, which may be said to occupy the same relation to school life that the laws of the State and the Nation do to civil life. Neither schools nor governments can be successfully conducted without method and discipline, and it is to obtain these that rules and laws alike are made. School government forms no exception to other systems of government: like them, it has its legislative, judicial, and executive functions.

While all living within the school district are entitled to the privileges of the school, only those having the statutory qualifications are entitled to a voice in the selection of members of the Board of Education (by whatever name this may be

called). In some States, women are eligible to election as school trustees.

CHILDREN.

<i>Rights.</i>	<i>Duties.</i>
Under our system of government every child is not only entitled to a thorough and complete education, but the law imposes upon him the duty of attending the full session of the school. Whoever prevents the exercise of this right, or permits the avoidance of this duty, does wrong to the child and breaks the law of the State.	It is the duty of each child:— 1. To attend the full session of the public school, or of some private institution of equal merit; 2. To be constant and punctual in attendance; 3. To obey the school rules, promptly and cheerfully, and to support and assist the school management. 4. To strive faithfully to perform all tasks assigned him; 5. To take advantage of all the opportunities afforded by the school; 6. To keep constantly in mind that schools exist solely for the benefit and advantage of the children; and that to make good use of his privileges is a duty which every child owes to himself, to his parents, and to the State.

PARENTS.

<i>Rights.</i>	<i>Duties.</i>
1. To have their children properly educated in the public schools. 2. To see that their children have equal opportunities with others.	1. To see that their children are prompt and regular in attendance at school. 2. To support the efforts of the management of the school, and to see that the rules and regulations of the school are complied with. 3. To see that the children are dutiful and respectful. 4. To supervise the home preparation of lessons.

BRANCHES OF DISTRICT SCHOOL GOVERNMENT. (NEW JERSEY.)

<i>Legislative.</i>	<i>Executive.</i>	<i>Judicial.</i>
Legal voters at School Meeting.	Board of Education. Teachers.	Superintendent (In some States, County Superintendent School Commissioner). State Superintendent of Public Instruction.

Both executive and judicial officers possess some of the powers of all three departments.

OFFICERS.

<i>Name.</i>	<i>Term.</i>	<i>Pay.</i>	<i>Duties.</i>
Board of Education, or School Committee.	1 to 3 yrs.	No pay.	1. To maintain a good and suitable school. 2. To employ competent teachers and to fix their compensation. 3. To provide proper furniture, books, and apparatus. 4. To visit the schools, and to inspect the school premises. 5. To provide for the care of the school property. 6. To make rules for the government of the school. 7. To make reports to those higher in authority.
Teacher.	Varies.	Varies.	1. To instruct the children and to assist in training them to become useful men and women. 2. To prepare them for good citizenship. 3. To require industry and obedience; in order that, through proper early training, they may be qualified to discharge the responsibilities of citizenship. <i>Rights.</i> 1. The teacher has the right to exact respect and obedience; 2. To require industry and application. 3. To expect kindness, politeness, and help, from the scholars and from their parents.

CHAPTER III.

THE CIVIL DIVISION.

In addition to the laws of the family, which are purely natural in their origin, and the laws of the school, which arise from the transfer of a portion of the family authority to the teacher, the child, as it grows older, comes under the regulations of organized civil government in its various forms. Of these, the highest in authority is the United States; the lowest, the civil division, or *unit of civil government*. This has different names and somewhat different powers in the individual States and in different sections of the country. Generally speaking, the civil division may be divided into three classes:—

I. THE CIVIL DISTRICT.

1. The Beat (Mississippi).
2. The Civil District (Tennessee).
3. The Election District (Md., Wyo., and parts of Texas).
4. The Election Precinct (Ala., Fla., Id., Ore., Utah, and parts of Ill. & Neb.).
5. The Hundred (Delaware).
6. The Justice's Precinct, and Communal District (parts of Texas).
7. The Magisterial District (Va., W. Va., & pts. of Ky.).
8. The Militia District (Georgia).
9. The Voting Precinct (Parts of Kentucky).
10. The Ward (Louisiana).

II. THE TOWN. In New England, New York, and Wisconsin.

III. THE TOWNSHIP. In the remaining States.

Under whatever name it may exist, and however limited it may be in its powers, the Civil District, Town, or Township, is the elementary seat of government.

CHAPTER IV.

THE CIVIL DISTRICT.

The Civil District is a subdivision of a county, to which is allotted a share of local self-government. It is simpler in organization and less autonomous, or independent, than the Town or Township.

Both in size and number, the *civil district* varies in different States, and in different counties in the same State.

The purpose of the division of the county into such subdivisions is, the convenience of the citizens and the more equitable administration of local affairs. Each *civil district* has its own court for the trial of small causes, thus bringing justice close to the masses of the people, at little expense; its own peace officers, thus securing tranquility, protection from crime, and the prompt apprehension of offenders against the law; and its own polling place, or places, thus affording convenience to the voter in casting his ballot, and guarding against wrongful voting by strangers. In addition to these advantages, the expense of administration from a distance is avoided; the higher courts are relieved from the burden and expense of a multitude of petty cases; and local affairs are, to some extent, kept in local hands, where they most properly belong and in which they are most intelligently administered.

The *civil district* possesses neither corporate power nor legislative authority. Its functions, entirely judicial and executive, lie within a very narrow scope. Its sole province is to apply the laws of the State to individual cases, in the manner prescribed by statute. Any civil unit, no matter by what

name it may be called, which possesses more than the above named power, properly comes under the classification of town or township.

The citizens of a *civil district* are those having a legal settlement in it, and for whose better security in life, liberty, and property, it is instituted.

CITIZENS.

<i>Rights.</i>	<i>Duties.</i>
1. To the adequate and impartial protection of all the laws. 2. To security of person and of property. 3. To require that the peace be preserved. 4. To pursue his own happiness in accordance with his own will, <i>providing</i> he does not invade the rights of others or break the law of the land. 5. To unimpeded, uncontrolled, and unintimidated right of franchise, if a voter.	1. To obey the law, and, when called upon, to assist the officers in its enforcement. 2. To abstain from injuring others by word or deed. 3. To assist his fellows in securing and in maintaining their rights under the law. 4. To vote at each election. 5. To support those parties and those principles which, in his conscientious judgment, make for the best interests of the whole country.

Officers.—The chief officers of the civil district are, the Justice of the Peace, and the Constable. In different States, the terms of these officers varies, as does also their number and the manner of their selection. They are elected by the voters, or appointed by the Governor, as the case may be.

Justice of the Peace. The duties of the Justice of the Peace are chiefly judicial; his jurisdiction being coextensive with the county.

1. He issues warrants for arrest, upon the sworn statement of the complainant;

2. Holds court, with the aid of jurors, for the trial of misdemeanors;

3. Conducts examinations of those accused of the graver crimes and may remand them for trial by a higher court;

5. Tries and decides small suits involving a fixed maximum sum — seldom more than two hundred dollars;

6. Commits reckless and dangerous persons to jail in default of bonds to keep the peace;

7. Presides, in certain cases, at inquests instead of the coroner;

8. Performs such other duties as are prescribed by statute.

He receives his compensation in the form of fees.

Constable. The duties of the constable are chiefly ministerial:

1. He ministers to the justice's court;

2. Serves writs, warrants, and other processes of the courts;

3. Preserves the public peace and arrests violators of the law.

In some States he is elected by the people; in others, appointed by the Governor. His compensation is received in the form of fees or, for certain services, at a fixed rate *per diem*.

CHAPTER V.

THE TOWN AND TOWNSHIP.

The Town or Township is the most typical of our civil divisions. Generally speaking, the Town of the New England States, New York, etc., possesses a greater degree of self-government than does the Township of the Middle and Western States; while these, in turn, have a much more extensive province than has the Civil District (by whatever named called) of the Southern States. From the general similarity of their organization and their powers, and the popular use of their names interchangeably, the Town and Township may be best treated together.

A Town or Township is a subdivision of a county, organized and incorporated for the convenience of its own inhabitants and invested with certain powers for the regulation and administration of its purely local affairs. It derives these corporate powers from the general or special act of the legislature under which it was incorporated — this incorporating act is sometimes spoken of as its *charter*.

When we speak of any political division by name, whether the township or the Nation, we may have in mind the body of the people who occupy the territory within its limits; or, we may think of the territory itself. The context usually points out the sense in which the word is used.

In the early settlement of the Eastern States, the inhabitants of the territory contiguous, and naturally tributary, to the various villages, which were usually located at a considerable distance from other settlements, found that they could best

subserve their common interests by organizing themselves into towns or townships, for the conduct of local affairs. Most of the Western States, having been settled at a later date, were surveyed by the United States government into townships (sometimes called Congressional Townships) of regular shape, and about six miles square. The modern *township* is the *mark* of the ancient German tribes, transplanted into England under the name of *township* and from thence brought to America under the denomination of *town* or *township*.

The number of towns or townships in a county varies according to the needs or the convenience of the different localities, and may be changed from time to time to meet new conditions and altered requirements.

As it is evident that local needs, which are often met by local taxation, are best known to the inhabitants of a community, it follows that local self-direction and responsibility is more satisfactory, inexpensive, just, and convenient than any other form of government. The closer government is brought to the people, the more responsive it is to the people's will and the more in harmony with our theory of government. The purpose, then, of the township form of government is the prompt and efficacious supply of local needs, the redress of local grievances, and the appropriation of local taxes.

A tax is a sum of money assessed against persons or property, for the use of government. In the different States, counties, towns, etc., the greater portion of the taxes is levied on real estate. Most States assess a small *poll* tax; i. e., a *per capita* tax against every legal voter. Assessment means *valuation*. A *legal voter* is one who is entitled to the privilege of franchise.

The *citizens* of a township are those living within its boun-

daries; its *voters*, those who possess the statutory qualifications for the exercise of the privilege of suffrage.

Rights of Citizens.

1. To the enjoyment, in common with all mankind, of life, liberty, property, and the pursuit of happiness.
2. To the even-handed protection of the law.
3. To the possession and to the use of private property, in any way that does not trespass upon the rights of others.
4. To security in persons, houses, papers, and effects, from unreasonable searches and seizures.
5. To security in life, liberty, and private property, unless deprived thereof by due process of law.
6. To the privilege of franchise, if qualified according to statute.

Duties of Citizens.

1. To live honestly.
2. To injure no one.
3. To do right by all.
4. To vote, if qualified, intelligently and conscientiously.

TOWNSHIP GOVERNMENT.

Each town or township possesses restricted legislative, judicial, and executive functions. Within specified limitations, the township committee, trustees, town council, or selectmen (as this body is variously called) may make enactments; the judicial department (justices) may apply them; and the executive department (constables, etc.) enforce them. In the New England States, and a few others, almost all local affairs are within the province of the town government, which is admin-

istered by a board (having different names in different States; as, selectmen, town committee, and the like) elected by the duly qualified voters of the town. In the States in which the township system prevails, the general functions of this board are largely similar to those of the like body in towns, but much more restricted in their scope. In all States, such boards are the legal guardians and custodians of the people's interests, and may make ordinances and by-laws of binding force. In law, each town or township is a corporation: that is, it may sue and be sued; borrow money; and buy, sell, and rent property for public purposes, in its corporate capacity.

Legislative Department.—In the New England States, the whole body of voters assembled in town-meeting constitutes the legislative department of the town government. In the Middle and Western States, the legislative power is vested in the Township Committee, Trustees, Selectmen, etc., by which various names this body is known. Their legislative functions are narrow, being confined to matters that are purely local. In some States, they may, to a limited extent, levy taxes for local purposes. Their laws are called *ordinances* or *by-laws*.

Judicial Department.—A limited jurisdiction is vested in one or more justices of the peace elected by the people.

Executive Department.—In every form of government, including the town and township, the executive department has the most extensive duties and requires the greatest number of officers for their discharge. The executive officers of a town or township may include supervisor (in some States), treasurer, clerk, collector, assessor, overseers of the poor, and of the roads, constables, school directors (under sundry names), surveyors of the highway, commissioners of appeals, and

numerous others. These officials are usually elected by the legal voters of the town or township.

Election.—An election (called in some States, town-meeting) is held annually upon a day fixed by law, at an appointed place, for the election of town or township officers and for the appropriation of money to be raised by taxation for local public purposes. The great advantage of this system is that it brings local government near to the people and places upon them the responsibility of a personal knowledge of the characters of those whom they elect to offices of public trust. Further, through this training in dealing with their own local affairs, they are trained and qualified to take an intelligent part in the larger affairs of State and Nation. The form of town or township government is a very near approach to pure democracy.

TYPICAL TOWNSHIP ORGANIZATION.

Township Committee.—The township committee (board of selectmen, supervisors, etc.) usually consists of from three to seven members, a portion of whom are elected annually by the people for a term prescribed by law — in most cases from one to three years. This committee has considerable scope and power in the government of the township. It can enact ordinances and make and enforce rules and regulations for the welfare of the township. It has charge of the public utilities and improvements of the township, and looks after and administers its finances. It has, also, some judicial functions; as, auditing accounts, requiring a bond from the treasurer, and the like. Its members are usually paid a fixed sum for each day of actual service.

Township Clerk.—The township clerk is, usually, elected by

the people for a period regulated by statute, by which, also, the manner of his compensation is ascertained. He keeps the minute-book of the township committee, calls all meetings, and performs such other duties as are required by law. In most States he makes up a yearly statement of the financial condition of the township. In some States he keeps the poll-lists and other legal papers of the township, and has charge of the records of marriages, births, deaths, and the like.

Township Treasurer.—The township treasurer is (usually) appointed by the township committee or elected by the people. In the event of failure to appoint a treasurer, the township clerk usually discharges the duties of the office. The township treasurer is the custodian of the township funds.

Overseer of the Poor.—The overseer of the poor is elected for a period of from one to three years, the term varying in different States. He has charge of the “poor farm,” where there is one, and exercises general supervision over the expenditure of township funds for the benefit of those persons who need and are entitled to such assistance.

Assessor.—The assessor is elected for a term prescribed by law, in most States from one to three years. It is his duty to place a just valuation on each piece of real estate and on the taxable personal property of each individual within the township, for the purposes of taxation. A copy of this assessment, known as the Assessor’s duplicate, must be furnished to the township collector, in order that he may collect the taxes so levied.

Commissioners of Appeals.—The commissioners of appeals (usually three in number) meet on certain specified days to hear complaints and adjust grievances in cases where assessments are claimed to be too high. In some States, the regula-

tion of assessments is in the hands of State and county Boards of Equalization.

Township Collector.—The township or town collector is charged with the duty of collecting (and in some States, of disbursing) all taxes returned to him on the assessor's duplicate. If not collected by a certain date, fixed by law, the amounts of the taxes remaining unpaid and the names of the delinquents are recorded in the office of the County Clerk. Taxes, when so recorded, become, with interest and costs, a first lien upon real estate.

Justice of the Peace.—Justices of the peace are judicial officers for the first inquiry into crimes, disturbances, and the like; and for the trial of small causes, a record of which must be kept in a book called the "docket." Their jurisdiction is limited to an amount which varies in the different States. This is, ordinarily, two hundred dollars, although, in some States, the amount is as low as fifty dollars. In such cases, their courts are courts of record. Trial may be had with or without a jury, at the election of the litigants. An appeal from all decisions of the justices' courts lies to the higher courts, without the necessity of assigning legal grounds for such appeal.

A justice of the peace may, in criminal cases, issue warrants for the apprehension of persons charged with crime or misdemeanor, when such charge is made under oath. He must hold in bail or commit to await the action of the grand jury, all persons against whom reasonable proof is brought that they are parties to crime or to breach of the peace.

Among his further powers: he may perform marriages, take affidavits and acknowledgments, and issue search warrants upon sworn statement showing reasonable grounds. In some

cases, he sits in the place of the coroner. He receives his compensation from fees.

Constable.—The constable is an officer of the peace, and is elected by the people, usually for three years. His duties are: to preserve and maintain the peace; to execute the processes and judgments of the courts; to serve warrants issued by justices of the peace; to sell goods upon execution; to select juries; and to perform such other duties as are prescribed by law. He may, and it is his duty to arrest, without a warrant, persons actually engaged in the commission of crime. Under such circumstances, he has the right to compel the assistance of other citizens.

Board of Education.—In some States, every township is divided into several school districts, each of which has its own board of education, school committee, or trustees. In other States, the whole township is regarded as a single school district, and but one board of education is elected. Such boards have in charge, the expenditure of school monies, the employment of teachers, the care of school property, and the general administration of the schools.

Other Township Officers.—Besides the above described officers, townships usually have, election officers, road overseers, surveyors of the highway, poundkeepers, a board of health, etc., whose functions are sufficiently indicated by their names. The board of health has an especially wide range of power, and, under modern conditions, is becoming more and more important. In some States, there are *sealers*, who keep correct copies of the standards of weights and measures.

CHAPTER VI.

THE COUNTY.

The County forms the connecting link between the township and the State, its form of government partaking of the nature of each. In the early days of the settlement of the country, while the town and township forms of government sufficed for the regulation and administration of the ordinary local affairs of the settlers; yet the expense and inconvenience of being obliged to go to the capital of the colony or province for the transaction of the more important matters of public concern, such as trials in the superior courts, the probate of wills, the transfer of land titles, and the like,—became increasingly evident, and was a burden of no small consequence. This led to the establishment of *counties*, modeled largely on the form of the divisions of the same name into which England was apportioned after the Conquest.

A *county* may be defined as one of those political divisions into which a State is apportioned for the better administration of justice. Each county possesses a county court of inferior jurisdiction, and is also a part of a circuit in which the supreme court of the State holds regular sessions. Counties are created by act of the legislature, or general assembly, of the State, which act is known as their *charter*, and their boundaries and organization are subject to modification and change by that body. In its turn, the county is subdivided into towns, townships, or civil districts. In the Southern States the power of the county is far greater than that of the civil district; in the Middle and Western States it has more

power than the township; while, in the New England States, the power of the town is greater than that of the county, which is, indeed, but little more than a judicial and a highway district. The *parish* of Louisiana corresponds to the *county* of other States.

The purpose for which States are divided into counties is, the convenience of the citizens in the administration of such local affairs as are too comprehensive for the smaller communities, and yet not sufficiently extensive to embrace the whole State; the better administration of justice, through the county and the circuit courts; the transaction of business with the State; and, in some States, the apportionment of representatives to both branches of the legislature. Each county maintains a court house, a county jail, and, perhaps, other county buildings; and has its own officers (elected by the people or appointed by the governor or other appointive power); such as, sheriff, prosecuting attorney, surrogate, and the like.

County Seat.—The place where the county courts are held, and the county buildings and offices located, is called the county seat. The public records are kept here; and here, wills, deeds, mortgages, and other like documents are copied and recorded with the respective public officers.

County Government.—The government of the county, like that of the State and of the Nation, is representative, or republican, in form, its principal officers being elected by the people. Like the United States, too, it has, in almost all of the States, the natural departments of government: legislative, executive, and judicial; although the functions of these departments are not always distinct and independent.

Legislative Department.—To the Board of County Commissioners, Board of Chosen Freeholders, or Board of Supervis-

ors (as this body is variously termed), the public interests of the county are, in most States, entrusted, and the legislative power assigned; although in some States the power of the board is almost wholly executive. In a few of the States the board is made up of the justices of the county, presided over by the county judge. In most States, municipalities above a certain population are entitled to representation on this board. In some States, as Michigan and Illinois, each township elects to the board one member, who is an officer of both township and county.

Executive Department.—The sheriff, prosecuting attorney, county clerk, county collector, and, in many States, county superintendent of schools are the principal executive officers of the county. They are invested with the power, and charged with the responsibility of carrying the laws of the State and of the county into effect.

Judicial Department.—The judicial power of the county is vested in the various courts: County, Orphans, Probate, etc. By the courts, justice is administered; the laws are interpreted; and the rights of citizens and of communities, maintained. In many States the county or probate judge is the most important county officer.

Oath of Office and Bond.—Before entering upon the discharge of their duties, all county officers must take an oath of office, prescribed by Statute; and, many of them are also required to give a bond for the faithful performance of their duties.

TRIALS.

Almost all trials, both civil and criminal, are heard in the county courts. It is in this connection that the thoughts of the

average citizen are most often turned toward the county government.

Civil Causes.—The ordinary course of a civil suit or action, is entirely conducted by papers, except at the actual trial of the cause, or case. Usually, a civil suit proceeds as follows:—

A *summons* is served upon the defendant, at the instance of the *plaintiff*, or party suing. A *summons* is a *writ*, issued by a court, and summoning, or commanding, the *defendant*, or party sued, to appear in court and answer the demand of the plaintiff. In most cases, it is not necessary for the defendant to come personally into court in answer to this summons; he may, through his attorney, file a notice of appearance in the office of the clerk of the court. If he does not appear by a fixed date, specified in the summons, *judgment*, or the decision of the court, is entered against him by default, and execution issues. But, in most States, judgment cannot be taken by default, unless a copy of the complaint was served upon the defendant at the same time as the summons.

If the defendant enters his appearance, the next step requisite is, that the plaintiff file his *complaint*, or declaration, setting forth his claim and the facts upon which it is based.

The defendant then responds by filing his *plea*, *answer*, or *demurrer*, which specifies the nature of his defense. All these papers are called the *pleadings*. The arguments of counsel are popularly called “pleadings,” but this is, technically speaking, incorrect.

When the pleadings have brought the dispute to an issue; that is, to a point where the plaintiff alleges something which, if true, entitles him to recover a sum of money from the defendant; and the defendant denies the truth of the facts so alleged by the plaintiff, the case goes to trial.

Trials are sometimes held before the court alone; but are more usually decided by a jury, who find the facts from the testimony offered at the trial, and award judgment in accordance with the law as explained and expounded by the court.

The trial itself proceeds substantially as follows:—

First, a jury is chosen and sworn to ‘well and truly try the cause and to deliver an impartial verdict, in accordance with the law and the evidence.’

Then the plaintiff’s counsel opens his side of the case by briefly stating the nature of the action and what he expects to prove by the evidence.

Next, witnesses for the plaintiff are called and examined by his counsel. If witnesses do not come voluntarily into court to give their evidence, they may be compelled to do so by a *subpoena*. A *subpoena* is a writ commanding the presence in court of a person as a witness, under a penalty for disobedience. The examination of a witness on behalf of the party calling him is called the *direct examination*.

When the plaintiff’s counsel has finished with the examination of each of his witnesses, the counsel for the defendant has the right to *cross-examine* that witness. In a cross-examination, a greater latitude is allowed in questioning a witness than on the *direct examination*. But a witness is required to answer only the questions put to him; he may not volunteer information.

After all the witnesses for the plaintiff have been examined and cross-examined, the counsel for the defense briefly states his side of the case and what he expects to prove by the evidence on his behalf.

He then calls his witnesses and introduces his evidence.

Each witness for the defence, after he has finished his direct testimony, is cross-examined by counsel for the plaintiff.

After all the witnesses on both sides have been examined, and all the evidence introduced, the counsel for the defendant makes an address to the jury, in which he sums up the evidence that has been adduced and argues the case from his standpoint.

He is followed, in like manner, by the counsel for the plaintiff, who argues, or sums up, his side of the case.

The judge then *charges* the jury; that is, he briefly summarizes the evidence on both sides, designating the points to be decided by the verdict of the jury and instructing them as to the law applicable to the case.

The jury then retire and deliberate in secret upon their verdict. If they do not agree upon a verdict, they are discharged; and another trial may be had. If they do agree, they come into court and deliver their verdict. In most States, a jury cannot render a verdict unless all are agreed. Some States, however, do not require that a jury be unanimous.

After the verdict has been rendered, if it be in favor of the plaintiff, judgment is entered upon the records of the court. If the defeated party thinks that any error of law has been committed during the trial of the cause, he may appeal, or apply, to a higher court, asking for a new trial. Such appeal only lies on technical grounds, for error in point of law.

After a judgment has been obtained, if the judgment debtor does not pay it, a *writ of execution* is issued to the sheriff, commanding him to seize the debtor's property and sell enough of it to pay the judgment and costs. If there is not enough property to satisfy the judgment, a *deficiency judgment* is entered up of the unpaid balance, which can be collected,



should the judgment debtor afterward acquire sufficient property. Certain kinds of property, of less than a fixed amount in value, are not subject to execution; as, household goods, clothing, tools of trade, and the like.

Criminal Cases.—The usual order of procedure in a criminal case is: (1) Arrest; (2) Commitment and Bail; (3) Indictment; (4) Arraignment; (5) Trial and Conviction; (6) Sentence.

1. **Arrest.**—In criminal cases the first step is (usually) the issuance of a *warrant* for the arrest of the person charged with violation of the law. A *warrant* is a writ, signed by a justice of the peace or other competent magistrate, directed to any constable of the county, commanding him in the name of the State to produce the body of the accused to answer to the charge of the complainant, or of the complaining witness. An arrest may be made by an officer of the law or by a citizen, without a warrant, if eyewitnesses to the commission of the crime.

Thus authorized by the warrant, the officer serves it by showing it to the accused and taking him into custody. If resistance is made to the execution of the warrant, the officer has the right to call upon any citizen for assistance, and such citizen is obliged to give his aid.

2. **Commitment.**—As soon as practicable after arrest, the prisoner must be taken before the justice issuing the warrant, or some other competent magistrate, for examination. If this examination clearly shows that no crime has been committed or that there are no probable grounds for believing the prisoner to be guilty of the offence charged, he is released. But if there is reasonable cause to believe him guilty, it is the duty of the magistrate: either to hold him in reasonable bail

to answer to the charge before a higher court; or else, to *commit* him to jail for trial or to await the action of the grand jury, as the case may be. A person is always entitled to bail, unless the charge is of a capital crime and the presumption against him strong. Excessive bail must not be required. By *bail* is meant security for appearance in court when wanted.

3. **Indictment.**—If the arrest of the accused occurred without his having been first indicted by the grand jury (see page 33), the evidence against him is now presented to that body, no evidence in his favor being permitted to be given at this time. When the grand jury have heard the evidence against the accused person, if the majority of them think the accusation not sufficiently proven, they endorse upon the written charge, or indictment, the words, “not found,” and then the prisoner is discharged without further answer. But if a majority of the grand jury are satisfied of the truth of the accusation, they endorse upon the indictment, “a true bill.” ‘The indictment is then said to be found, and the party stands indicted.’

4. **Arraignment.**—As soon as may be, after indictment, the prisoner is *arraigned*; that is, brought before the court to plead to the indictment. The indictment is read to him; and the judge asks him if he is guilty or not guilty. If the prisoner plead “guilty,” nothing remains but the imposition of the sentence and the execution of the judgment of the court. If, however, the prisoner plead “not guilty,” he is remanded to jail to await trial or is held in bail to answer when called upon.

5. **Trial.**—The method of conducting trials in criminal cases is largely the same as in civil cases.—

A jury is drawn or selected; the prosecuting officer states the case against the prisoner; witnesses for the prosecution

are called and examined; each witness for the prosecution is cross-examined by counsel for the prisoner. The prisoner's attorney then states his side of the case; calls witnesses to prove it, these witnesses being cross-examined by the prosecuting-attorney; and sums up the evidence and arguments in the prisoner's favor. He is followed by the prosecuting-attorney, who sums up on behalf of the State. The judge then charges the jury, who retire to consider their verdict.

If the verdict of the jury is, "not guilty," the prisoner is discharged. But if the verdict be, "guilty," the prisoner is brought before the court for judgment and sentence.

Sentence.—The sentence which may be pronounced against a convicted prisoner varies with the degree of the crime of which he may have been convicted, and with the circumstances of the individual case. Death is the highest penalty that may be inflicted. In some States, imprisonment for life is the highest penalty. Under no circumstances may "cruel or unusual" punishments be inflicted. The usual mode of punishment is by fine or imprisonment, or both. Sometimes, in cases where there are extenuating circumstances, sentence may be *suspended*. That is, the prisoner is released on promise of future good behavior. If he break this promise, and is again convicted of crime, the penalty of his first conviction may be added to that of the second.

After a person has been convicted of a crime, he may be *pardoned*, or he may have his sentence *commuted* to a lesser punishment, by the Governor or other competent authority of the State. If the crime was committed against the United States, the President may grant a pardon or commutation, if such course seem wise to him.

Neither in civil nor in criminal cases is a person compelled

to employ a lawyer to prosecute or defend his case. He may, if he choose, act as his own counsel; although such a course is almost invariably unwise. If too poor to employ a lawyer, the court will assign him one at the expense of the State.

OFFICERS OF TYPICAL COUNTY GOVERNMENT.

Board of County Commissioners (Supervisors, Chosen Freeholders, etc.). To this board, in most States, are committed the legislative, and some executive, duties of the county. The duties of the Commissioners are, in general, to erect and maintain county bridges, roads, etc.; to care for county buildings and county property; to appropriate county money for public purposes; to act as agents for the county in its corporate capacity, and to perform such other duties as may be required by law. The powers and duties of this board vary considerably in the different States. In some, they have power to erect new, and alter the boundaries of old, townships; in some, to fix the salaries of the county officials; while in others, their functions are almost entirely executive.

County Judge.—The county judicial power is usually vested in a county or a probate judge, who, in some States, is the most important county officer. Generally speaking, he grants licenses, holds examining trials, and sits in the county court to try minor offences and misdemeanors, and civil suits for small amounts. In some States, the duties of surrogate, probate judge, and county judge are entrusted to one judge; in others, they are separated and placed in the hands of different officers.

Sheriff.—The sheriff is the head of the executive department of the county. It is his duty to maintain and preserve the peace within the county, and to put down any rioting or violence that may arise. To this end, he may deputize any num-

ber of citizens that he may deem advisable. In the event of serious riot and disorder, he may call upon the governor to assist him with the militia.

He has charge of the jails of the county. He must care for and keep safe all witnesses held to give evidence at any trial; all prisoners held awaiting the action of the grand jury; all prisoners awaiting transference to the State prison, after sentence by the courts; and all prisoners serving time under sentence in the county jail. He also officiates at executions, in States where capital punishment is inflicted.

It is the duty of the sheriff to serve writs, execute warrants and processes directed to him by the courts, and to execute the judgments of the courts for debts. He advertises and sells real estate under foreclosure, by order of the courts having chancery jurisdiction. Personal property, also, is sold by him under judgment or chattel mortgage. He draws petit and grand juries. He is assisted in the discharge of his duties by deputies.

Grand Jury.—In nearly all States, the grand jury consists of not more than twenty-three nor less than twelve true men drawn from different portions of the county. Its duty is to inquire into crimes, breaches of the peace, and public nuisances; and, where there is reasonable ground to believe the parties charged with such crimes or misdemeanors to be guilty, to find a "true bill," or *indictment*. A majority of the grand jury is sufficient for the finding of an indictment. No witnesses for the accused are heard before the grand jury (formerly called the grand inquest), and an indictment means only that there is *prima facie* evidence of the guilt of the accused. When the inquiry is started by the grand jury itself, and not at the instance of the public prosecutor, their finding is called a *pre-*

sentment, not an indictment; and when the grand jury is called to consider a particular case only, the finding is termed an *inquisition*. It is customary to draw grand jurors from among the most prominent and intelligent men in the county.

Petit Jury.—Petit, or trial juries are composed of twelve men of the vicinage, who possess certain qualifications specified by statute. They decide both civil and criminal cases. The laws of all States require that in criminal cases all of the jury must agree upon the same verdict. In most States, the verdict in civil cases also must be unanimous; although in a few, civil cases may be decided by a greater or a less majority. In the event of a disagreement of the jury, in States requiring a unanimous verdict, a new trial must be had. Jurors may, before the trial, be challenged by either party; either peremptorily (a limited number of such challenges being allowed), or for cause, to the favor, etc. If an accused person is once acquitted by a petit jury, he cannot be again prosecuted for the same cause, no matter what new evidence of his guilt may be discovered. The jury system is one of the strongest safeguards of our liberties.

Prosecutor of the Pleas.—In each county there is an officer of the executive department of government, called, in different States, District-attorney, State's-attorney, Commonwealth's-attorney, Prosecutor of the Pleas, and the like, whose duty it is to represent the State in investigating crimes and in prosecuting persons charged with their commission. He must inquire into charges of crime, assist the grand jury in their investigations, draw bills of indictment in legal form, take the first steps in the trial of the accused before a court, and conduct the trial to its close. The office is one of great power and responsibility. In some States, the prosecuting attorney,

who is himself either elected by the people or is appointed by the governor, may appoint one or more deputies to assist him in the performance of his duty.

Coroner.—This is one of the most ancient and, under some circumstances, one of the most important officers of our polity. In each county, in most States, there are one or more coroners, usually elected at the same time as the sheriff, and for the same term of office. In many States a coroner cannot succeed himself in office. The principal duty of the coroner is the investigation of sudden, unnatural, and violent deaths. If he is not satisfied that a death was natural, he may hold an inquest, with the assistance of a jury, who must render a verdict of their findings as to the cause and instrumentality of the death. The coroner may cause the arrest of persons charged with murder by the coroner's jury. In the case of a vacancy in the office of sheriff, the senior coroner usually performs the duties of that office until a sheriff is appointed by the governor. In cases where goods are to be replevied from the sheriff, this can only be done by the coroner. A coroner may appoint deputies with limited powers.

County Clerk.—The office of county clerk is usually elective. He may be, *ex officio*, clerk of the circuit court, the court of common pleas, the court of quarter sessions, the court of oyer and terminer, and other county courts, designated by different names in different States. He usually keeps the minutes of the courts. He records all deeds transferring real estate and all mortgages, in books kept for those purposes. In some States, these last duties are performed by the clerks of the towns, and in some, by the county recorder or county register. The county clerk records and files chattel mortgages, building contracts, leases, etc., so that public notice may be given to

persons interested; he also keeps a record of unpaid taxes, which are a lien on the property against which they are assessed. These duties, also, are, in some States, discharged by town clerks, and in others, divided between the county register and county recorder. In some States, the county clerk issues marriage licenses; in some, articles of incorporation are recorded in his office before being filed with the Secretary of State. He must, also, perform such other duties, in relation to elections, etc., as may be required by law. In some States he is paid by salary; in others, by fees.

County Collector.—The county collector is the collector and custodian of all public monies, and of all monies raised within the county by State tax. All monies appropriated by the State for the benefit of the county pass through his hands. All moneys raised by tax for county expenses and for public utilities, such as county roads, bridges, buildings, and the like, are paid to him by the collectors of the several townships and municipalities; and are by him paid out as ordered by law or by the authority of the county commissioners, board of supervisors, or chosen freeholders, as the case may be. In some cases the office is elective, in others, appointive. Compensation may be by salary or by fees.

County Treasurer.—In some States there is a county treasurer who performs some of the duties above described as appertaining to the county collector, together with others prescribed by law.

County Auditor.—In States where there is a county auditor, it is his duty to audit all bills for payment by the collector or treasurer; i. e., to see that they are just and correct, and to certify to this effect. He also signs, jointly with the collector or treasurer, all checks for the payment of county bills.

County Superintendent of Schools.—In States providing for this officer, he has general supervision over the schools of the county. He apportions the school monies to the various districts; advises the boards of education in matters pertaining to the erection of school buildings and as to the manner in which the schools should be conducted; advises with and instructs teachers and principals in matters pertaining to their duties and to the welfare of the schools; decides some classes of disputes, subject to review by the State Superintendent; conducts examinations of teachers and issues licenses to teach; and sees to the enforcement of the School Laws and the regulations of the State Board of Education. The office is one of great importance and responsibility. It is usually appointive, the compensation being by salary.

County Surveyor, Engineer, Road Inspector.—There has been, in recent years, a growing tendency for counties to assume charge of public highways, bridges, etc., formerly maintained by the respective townships. In many States, this has led to the creation of the above, or similar officers, whose general functions are, respectively; the surveying of lands and roads; the building and maintenance of roads and bridges; and the inspection and up-keep of the highways.

Board of Tax Equalization.—County and State boards for the equalization of assessments and the uniform collection of taxes are now becoming quite general in States where, heretofore, these matters were left in the hands of local officials.

Other Officers of the County may be, superintendent of the poor, health officer, and the like.

CHAPTER VII.

MUNICIPALITIES.

Municipalities, by which is meant incorporated villages, boroughs, cities, and the like, are formed when, through congestion of population or other cause, the township and county form of government no longer adequately serves to meet purely local needs. Whether or not, such a community shall adopt the form of a municipal government is determined by the voters residing within the proposed boundaries. The size, the population, and the degree of self-government desired, usually determine whether a community shall incorporate as a city, a borough, or an incorporated village. These differ chiefly in size and in the scope and extent of their corporate control over their own local affairs.

TOWN, BOROUGH AND INCORPORATED VILLAGE.

A town, borough, or incorporated village, is a collective body of inhabitants, residing within designated boundaries, and administering their own local government under a charter obtained in accordance with the law. The general or special act of the legislature, under which the community incorporates, is usually termed the *charter*. This charter limits and defines the boundaries of the village, borough, or town;¹ and prescribes the manner of its organization, its powers and limitations, and the method of its government

¹ The word *town*, as here used, must not be confounded with the same word, denoting a division of a county analogous to a township.

through a President and Trustees, Selectmen, a Commission, or other body, elected by the voters. The charter also prescribes the powers and duties of these functionaries. The inhabitants of a municipality are subject to the general laws of the State; their local ordinances and by-laws having only local application.

TYPICAL VILLAGE OR BOROUGH ORGANIZATION.

Mayor or president, councilmen or trustees, assessor, collector, justice of the peace or recorder, clerk, counsel, borough engineer, overseer of the poor, marshal, poundkeeper, overseer of the highways, etc. The duties and functions of these officers are, in general, the same as those of officers of similar designation in townships and in cities, to which reference may be made.

CITIES.

A city is an incorporated division of a State, and may be comprised within a portion of one county or may extend over several, as does the city of New York. Like the less important municipalities, cities are incorporated under general or special act of the legislature, and derive their powers from this act, which is usually called the *charter* of the city, and may, in some respects, be likened to the State constitution or to the Constitution of the United States. Cities are, ordinarily, greater in extent and in population and are more largely self-governing than are towns and villages.

The charter, which is (in most States) granted by the legislature, and which may, at any time, be amended by that body, gives to the city a legal name; defines its boundaries; and constitutes it a corporate political entity. By the charter, the

powers and privileges of the city are set forth; its officers named, and their duties and the manner of their election or appointment prescribed; and authority to govern itself within the specified limits, granted. Like other political divisions, a city has a measure of legislative, judicial, and executive power. Its administration is usually placed in the hands of a mayor and one or more legislative boards, called, in different States, aldermen, councilmen, supervisors, etc. A few cities, as Galveston, are governed by Commission.

A city is usually divided into wards or districts, for convenience in the apportionment and election of representatives in its legislative body; the location of schools; and the election of members of the board of education.

In subordination to the three great departments (legislative, judicial, and executive), a city has, in most cases, a number of administrative departments, through which greater economy and efficiency is secured: the fire department, police department, health department, department of finance, department of public works, and the department of charities and corrections (the functions of all of which are sufficiently indicated by their names) are the most important. In recent years there has been a growing tendency toward the municipal ownership of public utilities; and, where this has been effected, the department of street cars, water works, public lighting, etc., are of corresponding importance.

The department of finance is, in the larger cities, one of very great importance. It collects taxes and assessments; pays salaries and expenses; and, where authorized, issues bonds and borrows money to pay for public improvements. The greater extent of public service furnished the inhabitants of cities, and the maintenance of fire, water, and other departments, involves

far greater expense and, consequently, heavier taxation than is the case in the smaller and less complex towns and villages.

As in all forms of free government, the votes of the duly qualified electors of the city are the foundation of legislative, judicial, and executive representation. The qualifications, rights, and duties of the citizens of a city are the same in kind as are those of the citizens of a township or of a county, except that a specified period of residence in a ward or district may be added to the other requirements for the privilege of suffrage.

Legislative Department.—The legislative power of a city is vested, sometimes in two bodies, which may be called common council and board of aldermen, or by other names; and sometimes in a single body, which may be called by either of the above names or may be known as the board of supervisors, or other title.

Executive Department.—The mayor of a city is at the head of the executive department of that city. His powers and functions vary widely in different States and in cities of different classes in the same State. In the main, his powers and responsibilities are somewhat analogous to those of the governor of a State, though in a lesser sphere. He represents the city at public functions; is charged with the conservation of the peace and order of the city; and has powers of appointment, more or less large. He also has the power to veto ordinances passed by the common council or board of aldermen. But such ordinances may be passed over his veto by a two-thirds vote. He is assisted in the administration of the city government by various subordinate officials; as, city solicitor, city clerk, and the like, whose general functions are largely similar to those of officers bearing somewhat similar titles, in counties, towns, and villages.

Judicial Department.—The larger judicial powers of a city

are usually vested in the courts of the county or counties in which the city is located. In addition to these, there are various courts for the trial of small causes and of misdemeanors; as, police court, children's court, recorder's court, alderman's court, justice's court, and the like, which have different names and somewhat different powers in different States.

CHAPTER VIII.

THE STATE.

A State is one of the several commonwealths which compose the Nation. It is a community of free citizens, living within fixed boundaries, over all of whom it exercises supreme authority, except as to such portion of its sovereign powers as were granted or transferred to the general government by the adoption of the United States Constitution and its Amendments. By the several States, the powers of the United States are granted; from the individual States, counties, townships, and other civil divisions derive their functions.

The thirteen original States were formed from the provinces and colonies which, prior to the Revolution, were under the dominion of the British crown. By the DECLARATION OF INDEPENDENCE, these declared themselves to be "free and independent States"; and, by the treaty of 1783, they were acknowledged by Great Britain to be free in fact, as, before, they had been in right.

New States can only be admitted into the Federal union by special act of congress, upon memorial from organized Territories having the population required by law. Congress then passes what is called an "enabling act," which authorizes the formation of a State government and the adoption of a State constitution. When these conditions have been complied with, the new State is, by another act of congress, or by a proclamation of the President, authorized in the enabling act, admitted into the Union "upon an equal footing with the original States in all respects whatever."

The purpose of retaining the separate identity of the original States and adding new ones from time to time is, the better and more impartial distribution of the benefits of government to many different communities, varying widely in climate, productions, and local needs, and separated by many degrees of latitude and longitude. In many respects the relation of the individual States to the general government may be likened to that of the county to the State and of the township to the county.

The several States possess all governmental powers 'not delegated to the United States nor prohibited to the States' by their respective constitutions and by the Constitution of the United States. The powers of the individual States are very extensive, and include absolute control over the citizen, in all the affairs of life in which he comes into relations with his fellows, wherein the Constitution of the United States does not conflict nor the State Constitution come into opposition. All of those laws and regulations with which the individual comes into contact in the daily walks of life are made and enforced by the State, either directly, or else, through the smaller political divisions, such as the county, etc., acting under its authority and by its direction. By the authority of the State, acting through its accredited agents, laws are enforced; courts of justice are held; taxes are collected; citizens are protected in their liberties; and violators of the rights of others are punished. By the State, too, educational, charitable, penal, and reformatory institutions are established and supported.

The *inhabitants* of a State are those who reside within its boundaries; its *citizens* (in a narrower sense) are those who possess the right of franchise or those who, having a legal settlement within it, are entitled to the benefit of the charitable and other public institutions established for the common ad-

vantage. In most State constitutions is contained a formal "Bill of Rights," setting forth the rights of the citizen; and where this portion of the constitution is wanting, the same rights are implied. Such a bill of rights will be found at length in Chapter IX.

General Rights.

- 1) To be secure in life and limb.
- 2) To be free from annoyance and from illegal restraint.
- 3) To acquire, keep, enjoy, and dispose of private property.
- 4) To provide in one's own way for himself and those dependent upon him.

General Duties.

- 1) To obey the law.
- 2) To aid in insuring justice.
- 3) To respect duly constituted authority.
- 4) To love one's country.
- 5) To labor for the public good.

NOTE. While the laws protect us in our rights, in protecting the rights of others, they control us.

Legal Voters.—The legal voters, or electors, of a State are those who, possessing the other qualifications demanded by law, have resided within the State, the county, and the township or voting district, for the time made necessary by statute to entitle them to vote;—usually, a year in the State, four to six months in the county, and thirty days in the township or voting district. In some States women have the privilege of franchise, more or less modified. In some States foreigners are permitted to vote, if they have resided within the State

for a specified time after having declared their intention to become naturalized citizens of the United States. The right to vote is not an absolute right of citizenship; but is a privilege granted by the legislature, under certain conditions and upon the possession of certain qualifications.

State Militia.—The militia of a State consists (in a broad sense) of all able-bodied male citizens between the ages of eighteen and forty-five, except such as are exempt by the laws of the State or of the United States. The organized militia (which is commonly spoken of as “the militia,” or the “national guard”), is usually composed of enrolled citizens organized into brigades, regiments, companies, etc., commanded by generals, colonels, captains, etc., on a plan very similar to the organization of the United States army. In some States, the militia is practically unorganized; in others, as in New York, it is very highly organized. Nevada has no organized militia. In some States there is a branch of the militia known as the Naval Reserve. A well-regulated militia is considered “necessary to the security of a free State.”

The State Constitution.—A constitution may be defined as a system of fundamental rules, principles, and ordinances, erected by a people for its guidance and government as a State or Nation.

The authority of the Constitution of the United States is supreme — its provisions are the paramount law of the land. The authority of a State constitution is supreme within the limits of that State, so far as its provisions do not come into conflict with those of the Constitution of the United States. From the constitution, the legislative, judicial, and executive departments of a State derive their authority, power, and sanction. The separate and independent existence of these three

departments is essential to the continuance of any representative form of government.

The constitution of a State is not to be considered as conferring powers of government upon that State, but, rather, as restricting the unlimited power of self-government which the State would have except for the regulation of the constitution. The Constitution of the United States, on the contrary, does confer the power of government; it embodies the surrender of a portion of the governmental powers of the several States to the general government of the United States.

A constitution is usually framed by a constitutional convention composed of delegates elected directly by the people, who meet at some designated place and agree upon the articles of the proposed constitution. These articles are afterward referred to the people, to be adopted or rejected by a majority vote.

The purposes of a constitution are: to define and assert the rights of the people; to safeguard and conserve their interests, and those of the State; to protect their liberties; to define and limit the authority of the different departments into which the government is organized and through which the provisions of the constitution are carried into effect; and to provide a method of changing the constitution to meet new conditions or unforeseen needs.

The constitutions of the various States are largely modeled upon the Constitution of the United States, with whose provisions they are prohibited from in any wise conflicting. The State legislatures cannot legally pass laws in contravention of the State constitution or of the Constitution of the United States. When, through error, this happens, such laws are set aside and pronounced null and void, by the courts of the States or of the United States, as the case may be.

The constitutions of the several States, which are much alike in their construction and in their general provisions, usually contain: (1) A preamble stating its general purposes; (2) a provision for the three departments of government (legislative, judicial, and executive; (3) a bill of rights; and (4) various articles relating to suffrage, the militia, taxation, and other subjects regarding the general weal.

The constitutions of some States (especially the newer ones) provide for the *initiative* and the *referendum*. By *initiative* is meant that a certain percentage of the voters of a State (usually 5%) may petition the legislature to pass the proposed draught of a law; which draught must be submitted to the people, who determine, by vote, whether or not it shall be adopted. By the *referendum* is meant that upon the petition of a certain number of voters, a law passed by the legislature shall be submitted to the people, who decide by ballot whether or not it shall remain a law. Such provisions have a tendency to make government more democratic.

Sometimes, under their general powers of legislation, legislatures pass laws containing a provision for submission to the people for their sanction, before going into effect. This also, is called a referendum.

TYPICAL STATE GOVERNMENT.

Legislative Department.—The law-making, or legislative power of the State is confided to the legislature, or general assembly, called in some States *general court*. This body, which is organized on lines very similar to the Congress of the United States is composed of two Houses: the Senate (called in some States, council) and the House of Representatives (called variously, assembly, house of delegates, house of commons,

etc.). The general assembly has power to make any law it judges best, provided such law does not conflict with the constitution of the State or with that of the United States. By *law*, in this connection, is meant a written statute; that is, a rule of action prescribed by the legislative power, and recorded and promulgated in writing.

The manner in which laws are passed is fixed by the several legislatures themselves (subject to constitutional provisions) through *rules*. These rules may be departed from on any given occasion, provided a quorum be present and a certain fixed proportion of them vote to suspend the rules on such occasion. Usually, in order to become a law, a bill must (First) be passed by a majority vote of both houses of the legislature, and (Second) either (1) be signed by the governor, (2) be passed over his veto by a two-thirds vote (in some States, a majority of all members elected) of both houses, or, (3) become a law with tacit approval of the governor, signified by his failure to take action on it within a certain number of week days (usually ten) after its passage by the legislature. The sessions of the legislature, like those of the courts, are open and public. A daily record of the proceedings of each house is kept in a register called, the Journal. In some of the States, the legislature meets annually; in others, biennially.

The Senate.—This body is usually made up of one or more Senators from each county (in some States, senatorial district), who must be of a certain age (usually 25 to 35); must have been an inhabitant of the State for a fixed number of years (usually, 3 to 7) and have lived within the county or district, for a fixed period immediately preceding his election.

House of Representatives.—This branch of the State legislature is composed of members, one or more from each county

or town, or one from each assembly district (which districts are set off according to population), who are elected annually by the legal voters of such counties or assembly districts. The necessary qualifications for membership in the assembly are practically the same as in the senate, except that the candidate need not be (in most States) more than 21 years of age, nor is he required to have been a resident of the State for so long a period as is a senator. The number of the members of the houses of assembly of the different States varies greatly — from 21 in Delaware to more than 300 in New Hampshire. In some of the Western States, as Colorado, women are eligible to election to both houses of the legislature. All revenue or money bills must originate in the house of representatives.

In the event of a vacancy in either branch of the legislature (caused by death, resignation, or otherwise), a writ issues from the house in which the vacancy has occurred ordering a new election to fill the vacancy ; but should such vacancy occur during the recess of the legislature, the governor calls the election.

In case of doubt as to the eligibility or qualifications of a person claiming to be entitled to a seat in either house of the legislature, the question is decided by the vote of that house. Each branch of the legislature is the judge of its own elections and privileges.

A majority (in some States, 2-3 or 3-5) of all the members of each house constitutes a quorum for the transaction of business by that house. A number less than a quorum has but two powers: they may adjourn from day to day; and they may compel the attendance of absent members, by such means and under such penalties as are provided by the respective branches of the legislature.

In some States, members of the legislature are paid fixed an-

nual salaries; in others, they are paid a fixed sum for each day of actual attendance. The laws of some States provide that each legislator shall, when engaged in the discharge of his duties, be provided by the railroads in the State, with a free pass over their lines.

Each house elects its own officers, except in States the constitutions of which provide for a lieutenant-governor who shall be the President of the Senate; and each house makes its own rules.

While attending the session of legislature, or while going thereto or returning therefrom, no member of either house may be arrested; except, at the instance of that house to compel his attendance or by the regular officers of the law, on charge of breach of the peace, felony, or treason.

How Laws Are Made.—When a member of either house is desirous of introducing a bill for the purpose of having it made a law, he first asks from the house permission for its introduction. This request, which is rarely refused, may be oral or in writing. Sometimes bills are introduced by petition. A *bill* is a form, or draft, of a proposed law. To be effective, such bills must consist of two parts: an enacting clause, which usually begins “Be it enacted,” and prescribes the legal duty of those to whom it may apply; and a penal clause, which states the punishment for its infraction. In addition to these two parts, many laws have a *preamble*, which states and explains the reason and purpose of the law. Strictly speaking, however, this *preamble* is not a portion of the act itself; although it may aid the courts in the interpretation and construction of the act.

When permission has been obtained for the introduction of a bill, or measure, it follows a course prescribed by the constitution of the State and the rules of the house. Upon in-

troductio, a bill is usually referred to one of the standing committees of the house, for critical examination and a report upon its merits and advisability. By a *standing committee* is meant a committee which continues throughout the session of the house; as "state affairs," "judiciary," "ways and means," etc. A measure which is reported upon unfavorably by the committee to which it was referred, is seldom further acted upon by the house. After a bill has been reported upon favorably by a committee, it must be read aloud three times to the house before it can be voted upon; but sometimes the first two of these readings are purely perfunctory, and take place before the bill is referred to the committee. It is usually required that these three readings be on three different days; but, in most States, this rule may be suspended or dispensed with, by a two-thirds, three-fourths, or unanimous vote of the house. Before the measure is finally put to vote, it is discussed and debated by those members of the house who desire to be heard in relation to it. In this debate, the reasons for and against its passage are usually brought out. Amendments to a bill may be offered at any time before the third reading. Sometimes, when it is desired to "kill" a measure, an amendment that the enacting clause be stricken out is offered. This, of course, if passed, defeats the bill.

When a measure has passed one branch of the legislature, it is transmitted, by the clerk of that house, to the other house for *its* action. The house to which it is thus transmitted may pass it as received, may reject it, or may amend it and return it to the house in which it had its origin, for the further action of that house.

After a bill has been passed by both houses, it is engrossed, and then transmitted to the governor for his approval or disapproval. If he signs it, it at once becomes a law. In some

States, if he take no action on it for a prescribed number of days (usually five or ten week days), it becomes a law. But if he returns it with his *veto*, or disapproval, and his objections to it, it can only become a law by being passed over his veto by a two-thirds vote of both branches of the legislature. In some States, a majority of all the members elected may pass a bill over the veto of the governor.

A law goes into effect as soon as it is finally signed, or formally passed, unless otherwise provided in the constitution of the State or in the law itself. Usually, provision is made that a law shall not go into effect until a certain number of days after the adjournment of the legislature. This is in order that the people may have an opportunity of becoming familiar with its provisions before becoming subject to its penalties.

Executive Department.—At the head of the executive department is the Governor. He is elected by the legal voters of the State for a term of years prescribed by the State constitution. His qualifications, powers, duties, rights, and privileges, are defined in the constitution. These vary more or less in every State. In addition to being the executive head of the State, the governor is the Commander in Chief of the National Guard, and of the Naval Reserve, if there be one. He has large powers of appointment. It is his duty to oversee the enforcement of the laws and to appoint such officers for carrying them into effect as may be prescribed by statute. At the request of the sheriff of any county, showing that life and property are in danger and that the civil officers are unable to enforce order or put down riot,—it is his duty to order out the militia for the support and assistance of the county officers. He may veto bills; convene the legislature in extra session on extraordinary occasions; and has many other powers and

duties. Among these last, is the power to grant reprieves, commutations, and pardons; when so doing, he is acting in a judicial capacity. In some States, there is an *elective council* to advise the governor.

A governor may be *impeached* for corrupt practices in office or for crimes and misdemeanors. Judgment in such case extends only to removal from office and to disqualification to hold office under the State. But an officer successfully impeached for crime or misdemeanor may be prosecuted and punished for such crimes, in the State courts, in addition to being removed from office.

The compensation of the governor is by salary fixed by the legislature, but such salary may be neither increased nor diminished during the term for which he was elected.

Lieutenant-Governor.—In States providing for this officer, he presides over the senate; and in case of the death, resignation, or disability of the governor, he assumes the duties of that office.

Secretary of State.—In some States, this officer is elected by the people; in others, appointed by the governor. In his office, all laws passed by the legislature are filed; as, also, are: articles of incorporation of industrial and railroad corporations; original wills, after being recorded in the surrogate's office; and, all nominations of political parties and returns of elections. He also certifies all laws, as to correctness in substance and transcription.

Attorney-General.—The attorney-general is usually elected by the people or appointed by the governor for a term specified by law. He is the legal adviser of the legislature, and of the governor and other State officials. In all suits to which the State is a party, he is a counsel for the State.

Comptroller.—The comptroller has superintendence over the

assessment and collection of taxes; the auditing of accounts against the State; the taxation of corporations; and the prosecution of delinquent officers of the revenue of the State. He is also the custodian of the rights, interests, and property of the State. This office is sometimes filled by election and sometimes by appointment.

State Treasurer.—The state treasurer is the custodian of all State monies, which he pays out on the audit of the comptroller or auditor, or as directed by law. In some States he is elected; in others, appointed.

State Auditor.—In States having an auditor, it is his duty to examine and certify to the books of the different departments; to pass upon the bills rendered against the State; and to prepare statements and perform other duties prescribed by law.

Commissioner of Banking.—This office is filled by appointment. The commissioner of banking examines the condition of State banks and loan associations from time to time and sees that the laws relating to them are complied with.

Commissioner of Insurance.—This officer has powers and duties in relation to insurance matters similar to the powers of the commissioner of banking in relation to banking matters.

In many States, especially the larger and more important, there are numerous other commissioners and officers: as, boards of public utilities, railroad commissioners, riparian commissioners, land commissioners, members of the State board of education, tax commissioners, the State superintendent of public instruction, and the like, whose duties sufficiently appear from their designations.

Judicial Department.—The courts of the State constitute the judicial department of the State. To them is entrusted the construction, interpretation, and application of the laws. In the different States, the names and powers of the different

courts vary, no two States being exactly alike in this respect. Courts are, speaking broadly, of two kinds: law courts and chancery, or equity, courts. In some States, the functions of these two branches of jurisprudence are administered in the same courts, sitting at one time as law courts and at another as courts of chancery.

Court of Impeachment.—This court is for the trial of impeachments of public officers. It is composed of all the senators of the State, sitting as a court. Impeachments must originate in the house of representatives (usually by a majority vote) and be tried by the senate. A two-thirds vote is required for conviction. Cases of impeachment are comparatively rare. By *impeachment* is meant the formal charge of wrongdoing on which an officer is tried by the senate; it is analogous to an indictment by a grand jury. Impeached officers are sometimes acquitted, as was the case when President Johnson was tried before the United States Senate. If convicted on impeachment, a person is removed from his office and may be debarred from holding any office of honor, trust, or profit under the State or the United States, as the case may be.

Court of Errors and Appeals.—This is the court of last resort, in which are tried cases involving points of law, appealed from the inferior courts. Its decisions are final. There is no appeal from or beyond it. In some States it is called the Court of Appeals; in others, there is no Court of Errors and Appeals, the Supreme Court discharging its functions and being the court of final resort.

Court of Chancery.—In several of the States, there are courts of chancery, while in the other States the functions of this court are discharged by the law courts, acting as equity courts. The Court of Chancery is a court of equity, in which are tried all civil cases wherein it appears that an adequate

remedy for an injury cannot be had in the courts of law. It often fulfills its functions by decreeing specific performance of contracts, by mandamus, or by injunction. The Court of Chancery is generally composed of a Chancellor and a number of Vice-Chancellors, usually appointed by the governor with the advice and consent of the senate. The Chancellor is, in some States, *ex officio*, Surrogate General and Judge of the Prerogative Court, to which last, all appeals from the decisions of the Orphans' Court are taken.

Supreme Court.—Although most of the cases heard in this court are on appeal from the decisions of the circuit and county courts, it is also, often, a court of original jurisdiction. That is, cases may be commenced in the Supreme Court without having been first tried in some inferior court and then appealed on some point of law. When the Supreme Court decides favorably on an appealed case, this does not mean that the merits of the case are decided; but only that a new trial in the lower court is granted on account of some error in the first trial. Appeals may be taken from the decisions of the Supreme Court to the Court of Errors and Appeals, in States having such a court.

Circuit Courts.—A circuit court (in some States called *district court*) is held at regular and stated intervals at the county court house of each county. It is presided over by one of the justices of the supreme court. The circuit court has common-law jurisdiction, in those States where the common law still prevails, in all cases within the county, except criminal cases. Judgments of the circuit court are recorded in the offices of the county clerks of the respective counties, and may be docketed in the supreme court. In some States, the law provides for a number of circuit court judges who, in the ab-

sence of the justice of the supreme court, are empowered to hold the circuit courts of the respective counties.

Court of Pardons.—The court of pardons usually consists of the governor of the State and a number of the judges of the other courts. The functions of this court are to pardon, release, or parole prisoners who have been convicted of crime, when sufficient reasons are shown why such mercy should be exercised. In the last case, if the prisoner violates his parole or is again convicted of crime, he is returned to prison to serve out the time of his original sentence. Many States have no court of pardons, the governor himself exercising all such powers.

County Courts.—In each county there is held a county court. In some States, this is presided over by a judge of the common pleas, who may hold four kinds of court: a court of quarter sessions, for the trial of petty crimes; a court of oyer and terminer, for the trial of felonies and other grave crimes; a court of common pleas, for civil suits involving debt, breach of contract, and the like; and an orphans' court, for the appointment of guardians and administrators, and the trial of cases involving wills and the estates of deceased persons. By whatever names it may be called, the above are, substantially, the functions of the county court.

District Courts.—Some States provide for the establishment, in the larger cities of courts known as district courts, or by other names, which take the place of the courts of the justices of the peace, but have a somewhat larger jurisdiction.

Justices Courts.—These have been described in a previous chapter.

In many States the functions of the above courts are some-

what differently distributed, and the courts themselves are known by different names: as, Superior courts, probate courts, court of general sessions, court of special sessions, hustings court, register's court, recorder's court, alderman's court, police court, and the like.

CHAPTER IX.

CITIZENSHIP.

A free nation is composed of *citizens*; other nations of *subjects*. The term "citizen" is used with two meanings in relation to those living in this country. In a broad sense, as defined by the Constitution of the United States, "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." In a narrower sense, only those who may vote and hold office are citizens.

The crowning glory of a republic is its citizenship; to elevate and protect which, such governments are instituted — to be in their turn strengthened and elevated, as the standard of citizenship is raised. The *government* of a nation is chiefly concerned with the rights and duties of its citizens; the *citizens*, with their duties to the government and to each other.

The duties and obligations of citizenship are political, social, industrial, legal, and moral.

Political Duties.—In his political relation to his fellows and to the government under which he lives, it is the duty of every citizen of a free state: to take an active and intelligent part in the political privileges and responsibilities which are his; to attend primaries; to vote for none but good men and good principles; and, if necessary to the betterment of the community at large, to strive himself to obtain office.

Social Duties.—When a person has discharged his political duties, he has fulfilled but a small fraction of his obligation as a member of society. His social obligations demand

that he should be ever active in charitable, educational, and social movements.

Industrial Duties.—In a general way, a person's industrial duties are comprised in his obligation to support himself and in his business relations with his fellows.

Legal Duties.—To prevent the community from falling into confusion and disorder, and to regulate the rights and duties of citizens—laws are made. Obedience to the law is a duty imposed upon every citizen. By law, a person must so use his own rights as not to injure the rights of others; and, he must, in some cases, when called upon, lend active assistance to officers, in the enforcement of the law. In fulfilling his legal obligations, a person is protecting himself from the aggressions of others, as well as refraining from himself invading *their* rights. A loyal compliance with the injunctions of the law is, then, as much to the advantage of the individual citizen as it is to that of his neighbors.

Moral Duties.—But it is the performance of duties imposed only by moral law and enforceable only by conscience and by moral sentiment, that best serves to show the quality of citizenship and to bring out the better attributes of mankind. Self-control is a moral duty; so also, are good habits. A citizen owes a peculiar duty of nurture, education, and training to his children. The character and extent of this nurture and education (which are, also, legal duties) must depend largely upon the means of the parent; but the duty of the best moral training is the same, whether the parent be rich or poor. A person never betters others individually or humanity at large, either morally or materially, without at the same time bettering himself. His moral duty to others is, therefore, equally his duty to himself. He must not only support himself, but he must support those who are dependent upon him; he must

not only elevate himself, but he must assist in elevating others; he must not only obey the letter of the law, but he must obey its spirit. The best guide in moral duty is, the Golden Rule.

The civil duties and civil rights of any individual, aggregated, are equal to his entire civil powers.

Man's inborn, or natural, rights are broadly grouped under his right to life; his right to liberty; and his right to the pursuit of happiness. But this assertion gives no very definite conception as to just what are his various rights — rights of person and rights of private property. Because of this, in many of the State constitutions is found a formal Bill of Rights, which schedules the principal rights to which citizens are entitled under a free government. Another reason for thus setting forth those rights is, that they had so often, under one pretext or another, been invaded by the crown of Great Britain, before the Revolution. The particulars of such invasions will be found detailed in the DECLARATION OF INDEPENDENCE, to which reference should be here had for the purpose of contrasting those *wrongs* with the *rights* which are asserted to be ours in the following typical:

BILL OF RIGHTS.

1. All men are born equally free and independent, and have certain natural, inherent, and unalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.

2. All power is inherent in the people; all free governments are founded in their authority, and instituted for their benefit: they have, therefore, an unalienable and indefeasible right to institute government, and to alter, reform, or totally change the same, when their safety and happiness require it.

3. All men have a natural and unalienable right to worship

Almighty God according to the dictates of their own consciences, and no one shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience, nor for his religious professions or sentiments, provided he does not disturb the public peace, nor obstruct others in their religious worship; — and all persons demeaning themselves peaceably, as good members of the state, shall be equally under the protection of the laws, and no subordination nor preference, of any one sect or denomination to another, shall ever be established by law, nor shall any religious test be required as a qualification for any office or trust under this state; and all religious societies in this state, whether incorporate, or unincorporate, shall at all times have the exclusive right of electing their public teachers, and contracting with them for their support and maintenance.

4. Every citizen may freely speak, write, and publish his sentiments on any subject, being responsible for the abuse of this liberty. No laws shall be passed regulating or restraining the freedom of the press; and, in prosecutions for any publication respecting the official conduct of men in public capacity, or the qualifications of those who are candidates for the suffrages of the people, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels, the jury, after having received the direction of the court, shall have a right to determine, at their discretion, the law and the fact.

5. The people shall be secure in their persons, houses, papers, and possessions, from unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, shall issue without a special designation of the place to be searched, and the person or thing to be seized, nor without probable cause, supported by oath or affirmation.

6. In all criminal prosecutions, the accused shall have a right to be heard by himself and his counsel, or either, at his election: to demand the nature and cause of the accusation, and have a copy thereof:

To be confronted by the witnesses against him:

To have compulsory process for obtaining witnesses in his favor:

To have a speedy, public, and impartial trial; and, except in trials by martial law or impeachment, by a jury of the vicinity. He shall not be compelled to furnish or give evidence against himself, nor be deprived of his life, liberty, property, or privileges, but by judgment of his peers, or the law of the land.

7. No person shall be held to answer for a capital or infamous crime, unless on a presentment or indictment of a grand jury, except in cases of impeachment, or in such cases of offences as are usually cognizable by a justice of the peace, or in cases arising in the army or navy, or in the militia when in actual service, in time of war or public danger. The legislature shall provide by law a suitable and impartial mode of selecting juries, and their usual number and unanimity, in indictments and convictions, shall be held indispensable.

8. No person, for the same offence, shall be twice put in jeopardy of life or limb.

9. Sanguinary laws shall not be passed: all penalties and punishments shall be proportioned to the offence; excessive bail shall not be required nor excessive fines imposed, nor cruel nor unusual punishments inflicted.

10. All persons, before conviction, shall be bailable except for capital offences, where the proof is evident, or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

11. The legislature shall pass no bill of attainder, *ex post facto* law, nor law impairing the obligation of contracts, and no attainder shall work corruption of blood nor forfeiture of estate.

12. Treason against this state shall consist only in levying war against it, adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or confession in open court.

13. The laws shall not be suspended, but by the legislature or its authority.

14. No person shall be subject to corporeal punishment under military law, except such as are employed in the army or navy, or in the militia when in actual service, in time of war, or public danger.

15. The people have a right, at all times, in an orderly and peaceable manner, to assemble and consult upon the common good, to give instructions to their representatives, and to request of either department of the government by petition or remonstrance, redress of their wrongs and grievances.

16. Every citizen has a right to keep and bear arms for the common defence; and this right shall never be questioned.

17. No standing army shall be kept up in time of peace, without the consent of the legislature; and the military shall, in all cases, and at all times, be in strict subordination to the civil power.

18. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner or occupant, nor in time of war, but in a manner to be prescribed by law.

19. Every person for an injury done him in his person, reputation, property, or immunities, shall have remedy by due course of law; and right and justice shall be administered freely and without sale, completely and without denial, promptly and without delay.

20. In all civil suits, and in all controversies concerning property, the parties shall have a right to a trial by jury, except in cases where it has heretofore been otherwise practised: the party claiming the right may be heard by himself and his counsel, or either at his election.

21. Private property shall not be taken for public uses without just compensation; nor unless the public exigencies require it.

22. No tax or duty shall be imposed without the consent of the people or their representatives in the legislature.

23. No title of nobility or hereditary distinction, privilege, honor or emolument, shall ever be granted or confirmed; nor shall any office be created, the appointment to which shall be for a longer time than during good behavior.

24. The enumeration of certain rights shall not impair nor deny others retained by the people.

Although there is no formal bill of rights (such as the above) contained in the Constitution of the United States, all the provisions of that instrument are framed to preserve these and the other rights of man. If our government has pre-

served and handed down to us these rights, unimpaired, that is the measure of its and our success. If, on the contrary, these rights are no longer ours, or are ours violated and deflowered,—that must be the measure of our failure and of the failure of this form of government, as exemplified in our application of it.

CHAPTER X.

GOVERNMENT.

Government may be understood in two senses. Sometimes the word is applied to the body of rules and laws by which the will of the sovereign power is made known; but more often, it is used with reference to the body of public officers who make, interpret, and execute those rules and laws. All powers of government are distributed into three co-ordinate departments; the legislative, judicial, and executive. While the functions of these three departments are not always kept entirely distinct, yet all have but one common aim — the regulation of the individual conduct, through laws. In this aspect, the laws of an organized society may be considered as its common will, or common conscience, in regard to the conduct of its members, both among themselves and as to strangers. This common will is expressed through the legislative department of government. The proper sphere and function of the law is, the assertion and enforcement of rights, duties, and powers. *Civil government* is, "that branch of political science which treats of the political rights and duties of the citizen."

The purpose of government is — the protection of the citizen from injustice, within and without the body politic, and his advancement in moral and material well-being. The citizen owes to the government *support*; and the government owes to the citizen *security* and *opportunity*. The sum of all the duties owed by a citizen to his local, State, and National governments, is the total amount of his obligations to government. When protection and opportunity have been afforded on the

one hand, and support and loyalty given on the other — the objects for which government is instituted, have been accomplished and its legitimate purposes are fulfilled.

The three great rights of a citizen are: the right of personal security; the right of personal liberty; and the right of private property. Nearly all rights may be reduced under one of these three heads.

By *personal security* is not alone meant security from physical attack. This would be a very low conception of the functions of a well-ordered government. Such security may exist under the most oppressive restrictions within the country — restrictions by the operations of unequal laws, the creation of privileged classes, and the failure to provide proper facilities for individual progress and general education. Personal security includes our fundamental right to enjoy life, body, health, and reputation; and, as well, our right of self defence.

By *personal liberty* is meant the right to come and go as one pleases and the right to pursue happiness in any way that does not conflict with the rights of others.

And by the *right of private property* is meant the right to possess, enjoy, and dispose of, the legitimate fruits of our own industry and enterprise.

The time of the formation of the first government is lost beyond recovery — in those ages before the formation of the Egyptian monarchy, the first organized government known to us. At the earliest period recorded by history, we find that nation living under a complex and highly organized governmental system; which included, king, priests, ministers, nobles, warriors, and no less than five different classes (or castes) of the *lower orders*, as those who obtained their livelihood by their own personal exertions were then, and for thousands of years afterward — until the rise of free republics — known

and considered. Such a government could only have been the product of many centuries of growth and development.

But at whatever time the first governments arose and under whatever circumstances they had their origin, the steps by which they grew are clearly and easily apprehended. Father, patriarch, chieftain, king, emperor — these are the earliest rulers, arising in (and out of) the order named: Family, tribe, congeries of tribes, kingdom, empire — these are the earliest ruled, following and growing out of each other in their order.

Early in the history of the human race, tendencies toward three forms of governments developed themselves: monarchies, aristocracies, and commonwealths. For each of these forms certain advantages are claimed: for the monarchy, strength; for the aristocracy, strength combined with wisdom; and for the commonwealth, wisdom. A closer examination of these forms will, however, disclose the fact that they are, in reality, but two tendencies; toward monarchy, or government by an individual; and toward democracy, or government by the people. The third, aristocracy, being an attempt to compromise between two conflicting principles.

Our present concern is with the democratic, or republican, form of government — “government of the people, by the people, and for the people” — especially as that form of government is exemplified in the United States, an aggregation of smaller commonwealths forming one majestic republic.

When history dawns upon the forefathers of our race, it finds them living in the depths of the German forests, under the form of miniature commonwealths — their highest officer in time of peace, a civil magistrate; in time of war, an elective chief, or king, who lost his authority with the passing of the emergency which gave rise to his selection. In their progress westward into England, our progenitors took with them this

theory of government. Modified and, at times, almost overcome by the influence and tyranny of conquering military lords from Gallic Europe, and later struggling with the ambitions and aspirations of kings sprung from these same invaders — this spirit of democracy has yet worked steadily forward toward democratic ideals and upward toward government solely by the will of the people: until today, as a result of this spirit, our mother-country, England, is, in all but name and hollow form, a republic; and our own mighty land has raised itself to the highest pinnacle of pure republicanism.

From England, early in the 17th century, came numerous small bands, who, settling at various points in the New England, Middle, and Southern States, brought with them, firm and fixed, the principle that government was made for man, not man for government. Constantly growing and expanding, this sentiment crystallized itself into the assertion that “all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness”; and took visible form in the puissant American commonwealth whose polity, having studied the institutions of one of its constituent States, we are about to examine.

This Nation, self-engendered amidst storms of blood and fire, promises to its citizens the undisturbed enjoyment of certain fundamental rights, not the smallest of which may be curtailed or abridged without their own consent, as expressed through representatives selected by themselves; and exacts from them certain duties, to which nothing may be added, unless, as before, with their own consent. These duties are, chiefly, the concern of the citizen; while his rights are the charge of government.

In securing these rights to its citizens, the Government is

placed under very heavy expenses, the money to defray which is mostly raised by taxation. There are two kinds of taxation; direct and indirect.

Direct Taxes, by which State, county, and township or municipal governments are mainly supported, are assessed in proportion to the value of property. The assessor makes a list of all property subject to taxation and of all taxable inhabitants, with the estimated value of such property, real and personal; and on this assessment the taxes are computed. If any person think that his assessment is too high, he may appear before the commissioners of appeals, the board of assessors, or other similar board, and ask to have his assessment rectified. In some States, persons liable to taxation are required to furnish a list of their taxable property. Certain kinds of property are subject to exemption from taxation: as, public property, church property, cemeteries, the property of literary and charitable institutions, and the like.

In the case of a person neglecting or refusing to pay his taxes, various methods are provided in the different States for the collection of such taxes; as, the sale of personal property, the sale of real estate, and, the imprisonment of the tax debtor. When real estate is sold for taxes, such sale is usually for a term of years; and the owner has the right to redeem his property by paying the taxes and other charges against it, and to take possession again, when the time for which it was sold expires.

Indirect Taxes, by which the government of the United States is chiefly supported, are: duties and other taxes, laid on the importation of goods from abroad; and excise duties, or taxes, laid on the production and consumption of goods, as the revenue taxes on tobacco, liquor, and the like.

A pure democracy is one in which all citizens take a direct

part in the making of laws, the selection of officers, and the like.

A representative democracy is one in which such functions, in whole or in part, are performed by representatives chosen, or elected, by the people.

All of our forms of government, from the township to the Nation, are representative democracies, and were made possible by THE DECLARATION OF INDEPENDENCE.

THE DECLARATION OF INDEPENDENCE.

Adopted by Congress July 4, 1776.

A Declaration by the Representatives of the United States of America, in Congress Assembled.

When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundations on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments should not be changed for light and transient causes; and, accordingly, all experience hath shown that mankind are more disposed to suffer, while evils are sufferable,

than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies, and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world:—

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the Legislature; a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the State remaining, in the mean time, exposed to all the danger of invasion from without, and convulsions within.

He has endeavored to prevent the population of these States; for that purpose, obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our Legislature.

He has affected to render the military independent of, and superior to, the civil power.

He has combined, with others, to subject us to a jurisdiction foreign to our Constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation,—

For quartering large bodies of armed troops among us;

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these States;

For cutting off our trade with all parts of the world;

For imposing taxes on us without our consent;

For depriving us, in many cases, of the benefits of trial by jury;

For transporting us beyond seas to be tried for pretended offenses;

For abolishing the free system of English laws in a neighboring Province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies;

For taking away our charters, abolishing our most valuable laws, and altering fundamentally the powers of our governments;

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever;

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the work of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy scarcely paralleled

in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow citizens taken captive on the high seas to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions, we have petitioned for redress in the most humble terms; our repeated petitions have been answered only by repeated injury. A prince whose character is thus marked by every act which may define a tyrant is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren.

We have warned them, from time to time, of attempts made by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity; and we have conjured them, by the ties of our common kindred, to disavow those usurpations, which would inevitably interrupt our connections and correspondence. They, too, have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war; in peace, friends.

We, therefore, the representatives of the United States of America, in GENERAL CONGRESS assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do in the name and by the authority of the good people of these Colonies, solemnly publish and declare, that these United Colonies are, and of right ought to be, *free and independent* States; that they are absolved from all allegiance to the British Crown, and that all political connection between them and the state of Great Britain is, and ought to be totally dissolved; and that, as FREE AND IN-

DEPENDENT STATES, they have full power to levy war, conclude peace, contract alliances, establish commerce, and do all other acts and things which INDEPENDENT STATES may of right do. And for the support of this declaration, with a firm reliance on the protection of DIVINE PROVIDENCE, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

PART II.
THE FEDERAL GOVERNMENT.

CHAPTER I.

THE ARTICLES OF CONFEDERATION.

The passage of the Declaration of Independence, July 4th, 1776, rendered it necessary that some plan of union between the several Colonies, or States, be adopted. Accordingly, a committee appointed for this purpose reported such a plan on July 12th following. After extended debate, discussion, and amendment, this plan, under the title, "Articles of Confederation and Perpetual Union between the States", was adopted by Congress, Nov. 15th, 1777. By these Articles, the government provided for in them was not to go into effect until the consent of all the States should first be obtained. Maryland was the last State to signify her consent, May 1st, 1781. During this interval, the common interests and common dangers of the States, all the while engaged in the Revolutionary War, served to bind them together without formal and written bonds of union.

These Articles, which it is unnecessary to give at length, being framed during and in view of war time, were ill-adapted to a time of peace. The Government, under the Confederation, was simply a league of sovereign States; and had no central authority with power to enforce obedience to its mandates. There was, it is true, a Congress, consisting of but one house; but as this body had no power to punish infractions of any laws it should make, these had no more binding force than mere recommendations. Provision was made for no executive officer such as the President; nor was there any national judiciary. The Congress had no power to lay

taxes, raise troops, regulate commerce, or enforce penalties to compel obedience to its laws. "They could declare anything, but do nothing." A few years of peace amid the conflicting interests of the various States demonstrated that the Articles of Confederation and the Government formed under them, were entirely inadequate for their purposes.

So evident and so dangerous did these defects appear and so necessary was it that they be remedied, that a movement set on foot by Virginia resulted, after great bitterness and many disturbances, in the adoption of the present Constitution of the United States, by a Constitutional Convention held in Philadelphia, on Sept. 17th, 1787. This Constitution, by its terms, was not to become effective until it had been ratified by at least nine States; and then, only as to the States so ratifying it. It did not, in fact, become fully effective as to all the States until the ratification of Rhode Island, the last State to concur, on May 29th, 1790.

Under the Constitution, the National Government has, in its sphere, paramount authority over all State laws and State governments.

Between the time of the adoption of the Constitution by the Convention and its ratification by the several States, there was much heated discussion and many bitter debates. Almost any collection of specimens of American Eloquence will give some or all of the speeches of Patrick Henry, Luther Martin, and others, against the ratification of the Constitution; and those of James Wilson, James Madison, Edmund Randolph, Alexander Hamilton, John Marshall, and others, in its favor.

The Constitution and our system of Federal Government, as it now exists, are the results of a series of progressive steps,

commencing shortly after the first settlement of our coasts.
These were:

- The New England Confederacy (1643);
- The Albany Plan (1754);
- The Stamp Act Congress (1765);
- The Committees of Correspondence (1773);
- The First Continental Congress (1774);
- The Declaration of Independence (1776);
- The Articles of Confederation (1781);
- The Convention at Annapolis (1786);
- The Constitutional Convention (1787).

CHAPTER II.

Text of the CONSTITUTION OF THE UNITED STATES OF AMERICA.

We, the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

Section 1.

1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2.

1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

2. No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the

United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and, until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.¹

4. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.

Section 3.

1. The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof for six years; and each Senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; and of the third class, at the expiration of the sixth year; so that one-third may be chosen every second year: and if vacancies happen, by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

4. The Vice-President of the United States shall be President

¹ Modified by the 14th Amendment, in relation to representation.

of the Senate, but shall have no vote unless they be equally divided.

5. The Senate shall choose their other officers, and also a President *pro tempore* in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the whole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

Section 4.

1. The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators.

2. The Congress shall assemble at least once in every year; and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Section 5.

1. Each House shall be the judge of the elections, returns, and qualifications of its own members; and a majority of each shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide.

2. Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

3. Each House shall keep a journal of its proceedings, and from

time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the journal.

4. Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Section 6.

1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office.

Section 7.

1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States: if he approve, he shall sign it; but, if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other

House, by which it shall likewise be reconsidered; and, if approved by two-thirds of that House, it shall become a law. But, in all such cases, the votes of both Houses shall be determined by yeas and nays; and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return; in which case it shall not be a law.

3. Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment), shall be presented to the President of the United States, and, before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be re-passed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Section 8.

The Congress shall have power,—

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defense and general welfare, of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;

2. To borrow money on the credit of the United States;

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

4. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States;

5. To coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures;

6. To provide for the punishment of counterfeiting the securities and current coin of the United States;

7. To establish post-offices and post-roads;

8. To promote the progress of science and useful arts, by securing

for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries;

9. To constitute tribunals inferior to the Supreme Court;

10. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years;

13. To provide and maintain a navy;

14. To make rules for the government and regulation of the land and naval forces;

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

17. To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the Government of the United States; and to exercise like authority over all places purchased, by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings. And,—

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof.

Section 9.

1. The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred

and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

3. No bill of attainder, or *ex post facto* law, shall be passed.

4. No capitation or other direct tax shall be laid, unless in proportion to the *census* or enumeration hereinbefore directed to be taken.

5. No tax or duty shall be laid on articles exported from any State. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties, in another.

6. No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

7. No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

Section 10.

1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex-post-facto* law, or law impairing the obligations of contracts; or grant any title of nobility.

2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports or exports shall be for the use of the treasury of the United States, and all such laws shall be subject to the revision and control of the Congress. No State shall, without the consent of Congress, lay any

duty of tonnage, keep troops or ships-of-war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

Section 1.

1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President chosen for the same term, be elected as follows:—

2. Each State shall appoint, in such manner as the Legislature thereof may direct, a number of Electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an Elector.

3. (Superseded by the 12th Article of Amendments.) The Electors shall meet in their respective States, and vote by ballot for two persons, of whom one, at least, shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of Electors appointed; and, if there be more than one who have such majority and have an equal number of votes, then the House of Representatives shall immediately choose, by ballot, one of them for President; and, if no person have a majority, then, from the five highest on the list, the said House shall in like manner choose the President. But, in choosing the President, the votes shall be taken by States, the representation from each State

having one vote: a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the Electors shall be Vice-President. But, if there should remain two or more who have equal votes, the Senate shall choose from them, by ballot, the Vice-President.

4. The Congress may determine the time of choosing the Electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

5. No person, except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President; and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly until the disability be removed, or a President shall be elected.

7. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive within that period any other emolument from the United States, or any of them.

8. Before he enter on the execution of his office, he shall take the following oath or affirmation:—

9. "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States; and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States.

Section 2.

1. The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into the actual service of the United States: he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

2. He shall have power, by and with the consent and advice of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the consent of the Senate shall appoint, ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions, which shall expire at the end of their next session.

Section 3.

1. He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may on extraordinary occasions, convene both Houses, or either of them, and, in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Section 4.

1. The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

Section 1.

1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

Section 2.

1. The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made or which shall be made under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; (to controversies between two or more States, between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign states, citizens, or subjects.

2. In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall

be by jury; and such trial shall be held in the State where the said crimes shall have been committed: but, when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

Section 3.

1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

Section 1.

1. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings, of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Section 2.

1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

2. A person charged in any State with treason, felony, or other crime, who shall flee from justice and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

3. No person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on the claim of the party to whom such service or labor may be due.

Section 3.

1. New States may be admitted by the Congress into this Union ; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned, as well as of the Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory, or other property, belonging to the United States ; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State.

Section 4.

1. The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the legislature or of the executive (when the legislature cannot be convened), against domestic violence.

ARTICLE V.

1. The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress : provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article ; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI.

1. All debts contracted, and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States, under this Constitution, as under the Confederation.

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

1. The ratification of the Conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

AMENDMENTS TO THE CONSTITUTION.

ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II.

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war but in a manner prescribed by law.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject, for the same offense, to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

ARTICLE VII.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved;

and no fact, tried by a jury, shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX.

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

ARTICLE XII.

1. The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves: they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the

certificates, and the votes shall then be counted: the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But, in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death, or other constitutional disability, of the President.

2. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice-President: a quorum for the purpose shall consist of two-thirds of the whole number of Senators; and a majority of the whole number shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

ARTICLE XIII.

1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV.

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and

of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

3. No person shall be a senator or representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

4. The validity of the public debt of the United States authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection and rebellion, shall not be questioned.

But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims, shall be held illegal and void.

5. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

ARTICLE XV.

SECTION 1. The right of the citizens of the United States to vote shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude.

SECTION 2. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

CHAPTER III.

THE CONSTITUTION OF THE UNITED STATES

Examined and Annotated.

The Constitution of the United States is that system of fundamental rules and principles by virtue of which the nation is governed and the powers of government defined. These rules and principles are embodied and set forth in the written Constitution. Like most written charters of government, this instrument has a preamble. But it contains no formal Bill of Rights, although the first ten Articles of Amendment partake of this nature. It is composed of various articles relating to the public weal and providing for the distribution of all the powers of government into three co-ordinate departments: Legislative, Judicial, and Executive.

The functions of these departments are not always distinct and separable. For example: when the President vetoes a bill, he performs a legislative act; when he signs a pardon, he performs a judicial act; when Congress impeaches and tries a public official, its action is judicial; when the Senate confirms an appointment, its act is executive; when the Supreme Court applies the law to a particular case, its act is executive; and the like.

Changed conditions and the inadequacy of its original provisions have led to the adoption of fifteen Amendments to the Constitution. For convenience in study, these amendments may be considered as though they were a part of the original instrument. Indeed, to treat the whole in any other way than as a single document would involve the discussion of the whole

history of the United States and of the political parties and movements from the time of the formation of the Union.

It must be borne constantly in mind that the government of the United States is a government of delegated powers: that is, of powers which have been delegated to the general government by the people or resigned to it by the States. The United States Government has only such powers as have been expressly given it by the Constitution or are necessarily implied by that instrument, fairly interpreted and construed.

On the whole, ours is the nearest approach to a perfect polity that has yet been devised by the human mind.

THE PREAMBLE.

The Preamble sets forth the purposes and objects to secure and guarantee which the Constitution was ordained and established. It is so short, so simple, and so clear, that little is left to be said by way of comment and elucidation. Careful study, however, brings out the line of thought pursued by its framers and assists in an understanding of the document as a whole.

We The People.—This is to be a compact of the people, and not a simple league or federation of the States in which they live. We are to be a Nation, and not a mere congeries of States.

In Order to Form a More Perfect Union.—The Union under the Articles of Confederation had been found to be inadequate for the accomplishment of its intended purposes. The passage of retaliatory laws by one State against another; the commercial rivalry between the different States; the lack of power to raise revenue for public purposes; the want of control over commerce, foreign and domestic,—all these, and many other causes, made certain the falling apart of the Union

under the Confederation and rendered necessary a new and more adequate concert, if the new nation were to continue to live.

Establish Justice.—Divergent and contradictory laws; disregard of the decisions of the courts of one State by the courts of the others; the practical nullification, through the decisions of the courts of the several States, of treaties made between the Confederacy and foreign nations; laws making unjust distinctions between the citizens of the States enacting them and the citizens of other States; together with many other evils which could only be remedied by the establishment of a system of uniform justice and authority, applicable to the relations between the citizens of the different States, one with another, and to the relations between the several States, foreign nations, and the general government — all these made this purpose of the Constitution of very great, and even vital importance.

Insure Domestic Tranquility.—In the absence of domestic tranquility, the every purpose for which the Constitution was established, would fail. Disputes about State boundaries; State rivalries and jealousies; and other causes of friction between the States, had imperiled domestic tranquility. Some action looking to its preservation and enforcement had become necessary.

Provide for the Common Defence.—Unless provision were made for the united defence of common interests, the States might individually fall under the dominion or domination of aggressive foreign powers.

Promote the General Welfare.—This clause covers and includes all the aims and ends which were sought to be accomplished by the formation of the Union under the Constitution — as well those purposes which are specifically mentioned,

as those which, by reason of their number and complexity, could never be enumerated and defined by any document made by human hands. Such a general statement of purpose was considered necessary in order that there might be no possibility of the omission, through oversight, of any of the essential objects for which the Union was to be constituted.

Secure the Blessings of Liberty to Ourselves and our Posterity.—Without liberty, all the benefits of ordered government and material prosperity would be worthless,—liberty not only for the framers of the Constitution, but liberty for those who were to come after them—for us. This secured and maintained, the whole purpose of human government is attained. Without it, the most splendid prosperity in material things is worthless—and worse than worthless.

Do Ordain and Establish this Constitution of the United States of America.—The *preamble* itself, from a strictly legal standpoint, is not a part of the Constitution; but, as the Constitution is formed for the accomplishment of the purposes set forth in the preamble, this may be said to be of essential importance in studying and understanding that instrument, and is of the greatest assistance to the courts in interpreting and expounding its provisions.

Note.—The Constitution itself is divided into seven parts, called Articles, and numbered from I. to VII.; and fifteen Articles of Amendment, numbered from I. to XV. These Articles and Amendments are subdivided into Sections, also numbered; and these, again, into numbered clauses. Any particular portion of the Constitution is referred to by article, section, and clause: as, II.-2.-1., meaning the first clause of the second section of the second Article. The Amendments are also referred to in a similar manner; as, Amendment XV.-2., meaning the second section of the fifteenth Amendment.

CHAPTER IV.

ARTICLE I. OF THE CONSTITUTION.

Sections 1.-4.

Section 1.

1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

This section erects the Legislative Department of the government, and vests all law-making powers granted under the Constitution in a bi-cameral Congress; that is, in a Congress divided into two branches, having co-ordinate powers of general legislation. Under the Articles of Confederation, the legislative power had been in the hands of a single popular body; and this experience had taught that the best results could not be secured from a legislative body so constituted. Hence the division into a House of Representatives, whose members are elected directly by the people, for a short term only; and a Senate, whose members are elected by the legislatures of the several States, for a comparatively long term. Each of these bodies acts as a check upon the other, preventing hasty and ill-considered legislation. The wisdom of such a division is further seen in the fact that almost all countries having a constitutional form of government thus divide their legislatures into two branches, referred to, usually, as the Upper and Lower Houses.

Section 2.

1. The House of Representatives shall be composed of members chosen every second year. Two years was finally fixed

upon by the Constitutional Convention, for the term of a member of the House of Representatives, or popular branch of Congress, as a compromise between the views of those who urged a term of one year, in order that the Members might be held to a stricter accountability to their constituencies; and the views of those who favored a longer term, on the ground that Members would become more familiar with their duties, and thus better qualified to serve the people. Congressional elections always take place in years ending in even numbers, and the terms of Representatives always expire in years ending in odd numbers.

By the People of the Several States. In the Constitutional Convention, as in the country at large, there were two parties, — one favoring the centralization of governmental power, and the other contending that it should be kept, so far as was possible, in the direct hands of the people. (These two schools of thought exist today, and will probably continue as long as the Government itself.) The former proposed that Representatives be elected by the legislatures of the several States; the latter, that they should be elected directly by the voters of the individual States, voting by districts. By a close vote in the Convention, it was decided that the members of the House of Representatives should be elected directly by the people of the several States, in proportion to their respective populations. In 1842, a law was passed by Congress providing for the division of each State into congressional districts, from each of which one Representative is elected.

And the Electors in each State shall have the qualifications requisite for Electors of the most numerous branch of the State Legislature. By "electors," in this connection, is simply meant, voters. This clause leaves in the hands of the several States the fixing of the qualifications of those who shall be

entitled to vote for members of the House of Representatives; but it prescribes that no State shall adopt a test higher or different for the exercise of the privilege of franchise in congressional elections than such State requires for eligibility to vote for members of the most popular branch of its own legislature. The requirements of the several States differ somewhat widely; but, in general, require a residence of one year in the State, six months in the county, and one month in the town or township. Some States require an educational test, others, a property qualification; while in some, even aliens are allowed to vote, if they have declared their intention of becoming naturalized, and have lived a certain time in the State. (In common parlance, members of the House of Representatives are known as "Congressmen," while members of the Senate are called Senators; strictly speaking, members of both Houses are equally and properly, Congressmen.)

Members of the House of Representatives are, as has been noticed before, elected, in the several States, by congressional districts. For convenience, these districts are numbered in each State (1st, 2d, 3d, etc.) and are known by their numbers; as, the First Congressional District of New York, etc. The voters of each district vote for one candidate for Representative.

2. No person shall be a Representative who shall not have attained to the age of twenty-five years.

Although a person attains his legal majority at the age of twenty-one years, it was thought by the members of the Constitutional Convention that several years of management of his own affairs were necessary for qualification to legislate for others in the important concerns of National life. The age of twenty-five was finally fixed upon as that most suitable; and, all things considered, this is probably a wise limitation.

Been seven years a citizen of the United States. In order to be eligible for election to membership in the House of Representatives, it is not required that a person should have been born in this country. He must, however, have been a citizen for at least seven years; and, if to this be added the five years of residence necessary before naturalization — twelve years of residence in the country is necessary before an alien can become qualified for election as Representative in Congress, a period supposedly long enough to enable him to become familiar with the institutions and the needs of the country.

And who shall not, when elected, be an inhabitant of that State in which he shall be chosen. As the States are represented in Congress by their Representatives, it is but reasonable to require that such Representatives should not be elected from without the State whose interests are entrusted to their keeping. A Representative may, however, be a resident of any portion of the State, and is not required to reside in the particular congressional district from which he shall be chosen. This enables each State to send its best men to represent it in Congress.

3. *Representatives and Direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and, until such enumeration*

shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

This clause provides that the Representatives in Congress shall be apportioned among the several States in proportion to their respective populations, as ascertained by an enumeration, or *census*; and that direct taxes shall be laid in a like manner.

The Fourteenth Amendment to the Constitution modifies and alters this clause, so far as it relates to the manner of the enumeration on which representation is based. This change was due to the questions growing out of the abolition of slavery. It may be noticed here, in passing, that slavery is never directly mentioned in the Constitution, until in the thirteenth Amendment — after the extinction of that institution. Prior to that, all reference to slavery is by paraphrasis or circumlocution. This was, of course, intentional; in order to avoid the mention of an ugly word in connection with the establishment of institutions dedicated to freedom.

Congress is here prohibited from assigning more than one Representative to each thirty thousand of population. The ratio, as first established by Congress, was one Representative to (about) every fifty thousand inhabitants. This ratio has been constantly increased, until there is now a population of more than two hundred thousand for each Representative in Congress. Women and children are included in this enumeration, and are in this way represented in Congress. It sometimes happens that a State is entitled to more Representatives than it has congressional districts. In this case, Representa-

tives at Large are elected by the voters of the whole State. Such Representatives are called "Congressmen at Large."

It is an exceedingly interesting and instructive study to compare the growth in population and relative importance of the several States, by contrasting their present representation in Congress with that provided for in this clause of the Constitution.

By an act of Congress (not by a specific provision of the Constitution), each organized Territory is represented in Congress by one "Delegate," who may speak for his Territory, and may participate in the discussions of the House; but who may not vote.

4. *When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.*

Such an election is called a special election, and is held in pursuance of a writ directed to the Congressional district in which the vacancy has occurred. The election is for a Representative to fill the unexpired portion of the term for which the former incumbent had been chosen; and occurs on a day fixed by the governor of the State, usually shortly after the vacancy arises. Such vacancies occur by death, resignation, or expulsion from the House.

5. *The House of Representatives shall choose their Speaker and other officers.* Under the growth and development of this country, which is reflected in the increasing size and expanding responsibilities of Congress, the office of Speaker of the House of Representatives, who must be a member of that body, has come to be second in importance only to that of the President himself. It is the duty of the Speaker to preside over the deliberations of the House; to apply its rules; to appoint its committees; and to preserve order during its sessions.

In addition to the Speaker, the House has other officers, who are not members of the House; as, the Clerk, who is Secretary of the House and has charge of the records of the House and of the bills under consideration; the Sergeant at Arms, who maintains order, summons absent members, and, when so directed by the House, makes arrests and summons absent witnesses; the Doorkeeper, who has charge of the chamber in which the Representatives meet, and guards the doors when the House is in session; the Postmaster, who looks after the mail of the members; the Chaplain, who opens the sessions of the House with prayer; and other subordinate officers.

And shall have the sole power of impeachment. By this clause, the sole power to originate impeachments is given to the House of Representatives. An *impeachment* is a grave accusation of treason, bribery, or other crime or misdemeanor, brought against a civil officer of the government. In its nature, it bears a close analogy to an indictment by a grand jury. In the trial of impeachments, the Senate, as is elsewhere more fully explained, acts as a trial court of the impeachment brought by the House of Representatives acting in a capacity somewhat similar to that of a grand jury.

Any member of the House, who believes that a crime has been committed or an impeachable wrong done, by a civil officer of the United States, may move for the appointment of a committee of investigation. If this committee, after appointment and after inquiry, report in favor of an impeachment and such report is adopted by the House, after discussion, another committee is appointed for the purpose of drawing up formal and specific articles of impeachment. These articles are discussed, and voted upon, by the House, article by article, a majority vote being sufficient to carry any article. Another

committee is now appointed to present these articles of impeachment to the Senate, by whom they are tried.

Section 3.

1. *The Senate of the United States shall be composed of two Senators from each State.* This composition of the Senate gives to each State an equal voice in the proceedings of that body. As in the case of many of the other provisions of the Constitution, this clause represents a compromise between those States (the smaller and less important ones) which were in favor of each State, no matter what its size or population, having an equal representation in both Houses of Congress, and those other States (the larger and more important) which urged that representation in both bodies be based on proportionate population. The contention of the former was sustained as to the Senate, and that of the latter in regard to the House of Representatives. Two Senators are chosen from each State largely that, in the absence, due to illness or other cause, of one of the Senators of a State, that State might not be altogether without representation in the Senate.

Chosen by the Legislature thereof. This, again, represents a compromise between the views of those who desired the Senators to be appointed by the President, and those who wished that they be elected directly by the people. In recent years, there has been a growing sentiment that this last course would have been preferable to the one adopted.

The legislature of a State chooses a Senator's successor at the last session before the expiration of the term of the incumbent. The procedure is regulated by an act of Congress, which prescribes that each House of the State Legislature shall, when a Senator is to be elected, take a separate vote for

Senator, on the second Tuesday after the legislature meets. The next day, the two Houses must meet together, and, if it appear that, on the previous day, any candidate received a majority of the votes of each House, such candidate shall be declared elected. If no candidate had received a majority in each House, then the two Houses must proceed to vote for Senator in joint session, and must continue to so vote in joint session each day until some candidate is chosen or until the legislature adjourns. If the legislature adjourn without having elected a Senator, the governor of the State cannot fill the vacancy by appointment — the seat must remain vacant until the legislature shall regularly elect a Senator.

For six years. Many members of the Constitutional Convention thought that Senators should be elected for life or during good behavior. Others thought that the term of a Senator should be the same as that of a Representative. Six years was finally fixed upon as a compromise between the views of these two parties.

And each Senator shall have one vote. The Senators represent the States in their political capacity, and, as all States are equal as States, all are given an equal voice in the proceedings of the Senate.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of Senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; and of the third class, at the expiration of the sixth year; so that one-third may be chosen every second year. This clause constitutes the Senate a perpetual body, made up of members, one-third of whom have had at least four years of legislative experience; one-third, at least two years; and the remaining third of whom

may be, at the beginning of their terms, without any legislative experience whatever.

As one-third of the members of the Senate and all of the members of the House of Representatives are elected each two years, the members of both Houses elected at each such period, together with those Senators "holding over," are said to constitute "A Congress"; which endures for two years after each such election, and is known by a number, found by dividing the difference between 1789 (the year in which the first Congress was elected) and the year when any Congress expires by two (2); as, the Congress which expired in 1791 is known as the "1st Congress", that expiring in 1911, as the "61st Congress", etc.

And if vacancies happen, by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies. This clause prescribes the manner of filling such vacancies in the Senate as may, from time to time, occur. A Senator elected or appointed under its provisions holds the office only during the unexpired portion of the former incumbent's term.

3. *No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.*

As it was the intention of the framers of the Constitution that the Senate should be a graver, a more dignified, and a more conservative body than the House of Representatives; and as, in some respects at least, the duties of a Senator call for the exercise of a riper judgment than do those of a Representative,—the qualifications for a seat in the Senate are made

more exacting, although not different in kind, than are those for eligibility to membership in the House of Representatives.

4. *The Vice-President of the United States shall be President of the Senate.* The members of the Constitutional Convention believed that the presiding officer of the Senate would be more impartial in his rulings, and less likely to be influenced by bias toward his own State, if he were not a member of the Senate. The Vice-President was selected to be also President of the Senate because (probably) no duties attached to his office as originally constituted; except the succession to the duties of the office of President, in the event of death, resignation, or other disability on the part of that officer.

But shall have no vote unless they be equally divided. Provision is made in this clause, that, in the event of an equal division of the Senate, the Vice-President shall have a casting vote. It will be noticed that, in effect, this only gives him, in the contingency provided for, an affirmative vote; for a measure can only be carried by an affirmative majority.

5. *The Senate shall choose their other officers, and also a President pro tempore in the absence of the Vice-President, or when he shall exercise the office of President of the United States.*

It is the duty of the President of the Senate *pro tempore*, who is an officer of the Senate chosen from among its own membership, to exercise the duties of the office of the Vice-President of the United States in his absence or in the event of his succeeding to the office of President of the United States; but the President of the Senate *pro tempore* does not, in this last contingency, become Vice-President, nor does he, in the event of the disability of both the President and the Vice-President of the United States, succeed to that office.

The other Senate officers, chosen by the Senate, are not

members of that body. They are secretary, sergeant at arms, postmaster, and doorkeeper; their duties being sufficiently indicated by their titles.

6. *The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.*

This clause provides for the trial of all impeachments. In such trials, the Senate sits as a *court*, under oath or affirmation. When the President is tried, it is prescribed that the Chief Justice of the Supreme Court shall preside; because (probably) the Vice-President has a direct interest in the conviction of the President, and it would be unseemly for him, in his capacity of President of the Senate, to preside over a trial on whose issue might depend his own advancement to the highest office in the land. The provision that two-thirds, instead of a majority, of those members present must concur in a conviction, guards against injustice being done by reason of party or political prejudice.

7. *Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.*

By this clause the punishment of an official on impeachment is limited to removal from office and to disqualification to hold or enjoy office under the United States and by the 4th section of Article II. of the Constitution, removal from office is made imperative in the cases of all civil officers on impeach-

ment for, and conviction of, treason, bribery, or other high crimes and misdemeanors. Such other punishment as these crimes and misdemeanors may call for is left to the ordinary courts of justice. The effect of these provisions is, that an accused official is only tried by the Senate for offences so far as they affect his official capacity; while for the offences themselves, he is answerable at the bar of common justice. Members of either House of Congress, and officers of the army and navy, are not liable to impeachment. Their offences are tried in other ways provided by law. In practice, only the highest officers of Government are impeached for wrong-doing; and such cases are of very rare occurrence.

A trial by impeachment is conducted, substantially, according to the usual procedure of the higher courts of law.

When the evidence has all been considered and the arguments heard, the Senate considers its verdict, every Senator, on the call of his name, voting *yea* or *nay* on each article of impeachment. If two-thirds of all the Senators present find the accused guilty of all or of any one of the charges, he must be removed from office; and may, in addition, be disqualified to hold and enjoy any office of honor, trust, or profit under the United States.

Section 4.

1. *The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators.*

This clause provides for the regulation of elections for Senators and Representatives; so that, if it be deemed advisable, these may be made uniform throughout the whole coun-

try; and that, in the event of default on the part of the legislature of any State to make any provision for such election, or in the event of improper or inadequate provision being made,— Congress can intervene to prevent the intention of the Constitution, that all the States should be represented in Congress, from being frustrated.

This power of regulation is absolute, except as to the places for choosing Senators. As these are chosen by the legislatures of the several States, to give to Congress the power of prescribing the places for the election of Senators would be, in effect, to give them the power of prescribing the places of meeting of the various State legislatures. This would be inconsistent with the independence essential to each State with respect to its own legislature.

2. The Congress shall assemble at least once in every year; and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

In this clause, provision is made by the Constitution for the frequency and for the time of the meetings of Congress, lest the two Houses fail to agree upon these points. The *place* of meeting is not prescribed; because war, pestilence, or other cause, might, at times, prevent them from meeting at any particular place that might be designated.

As circumstances might render it advisable for Congress to meet on some other day than the first Monday in December, it is provided that the two Houses may agree upon a different day. Elsewhere in the Constitution, power is given to the President to call Congress together at any time, on extraordinary occasions.

As members of Congress are always elected in November (in one or two States, in October) for a term commencing on the 1st of March following, and as the Congress does not meet

until December; it follows that a member of Congress does not take his seat in that body until about a year and a month after his election.

But as the term of one Congress commences on March 1st, it follows that the term of the preceding Congress expires at that time. This results in a *long session* of each Congress, which may last from the first meeting of a new Congress in December until the following December; and a *short session*, which can only last from December of the second year of a Congress until the 4th of March — a trifle over three months.

Congressional elections occur in years ending in even numbers, and new Congresses meet in years ending in odd numbers.

CHAPTER V.

ARTICLE I. OF THE CONSTITUTION.

Sections 5-7.

Section 5.

1. *Each House shall be the judge of the elections, returns, and qualifications of its own members.* The power of judging of the elections, returns, and qualifications of its own members is not a power peculiar to Congress; but is a right possessed by all of the State legislatures, and, as well, by all similar bodies anywhere, under a free government. This is a very necessary provision under such a government as ours; for, if this were not the case, and if any authority other than the Congress itself could decide who were entitled to seats in its body, such authority could, by this means, control legislation and could nullify the wishes of the people as expressed by their ballots. Moreover, such a power in Congress is necessary, because it might happen that some person should be returned to a seat in Congress, who did not possess the qualifications imposed by the Constitution for eligibility to that body; or, a person who was totally unfitted by his moral character at the time of his election or who became so unfitted after such election might be chosen to such membership. Under any of these conditions, either House of Congress has the power to deny to such a person membership in its body.

And a majority of each shall constitute a quorum to do business. This, also, is a very necessary provision. If it were required that all, or nearly all, of the members be present

before business could be transacted, a few interested individuals might, by absenting themselves, completely block legislation. On the other hand, if business might be transacted by a very small number of the members, advantage might be taken of this fact by a small minority to pass obnoxious laws in the absence of the greater number of the members. For these reasons, the Constitution specifies as a quorum by which business may be transacted by either House, a majority of all its members.

But a smaller number may adjourn from day to day. It might be that a majority of the members were absent and that their presence could not be obtained on any given day. Hence authority is given to such members as may be present, to adjourn; but only from day to day.

And may be authorized to compel the attendance of absent members. If power to compel the attendance of absent members were not given to such members as may be present, the whole business of legislation might be suspended or blocked at the pleasure of indifferent or unduly influenced absentees.

In such manner and under such penalties as each House may provide. Without some penalty for disobedience, no command can be enforced. For this reason, power is given to each House to provide for the punishment of any of its members who may neglect or refuse to obey a summons to attend.

2. *Each House may determine the rules of its proceedings.* Without rules of uniform procedure, business cannot be transacted with order and despatch. Every deliberative body is the best judge of the rules and regulations requisite for the proper conduct of its own business; and in this provision, the Constitution but affirms a right possessed by all deliberative

bodies. Such rules must not, of course, conflict with any of the provisions of the Constitution.

Punish its members for disorderly behavior. Rules might prove of no effect, were there no power to punish their infraction. In times of high excitement men are apt to give vent to their feelings in unconsidered language and tumultuous conduct. This might lead, and has led, to the stoppage of business and the loss of dignity on the part of the House. Such occurrences would be much more frequent, were it not for this power to enforce obedience to rules by imposing punishments for their violation.

And, with the concurrence of two-thirds, expel a member. This defines the extreme punishment which may be laid by either House for the violation of its rules or the disregard of its decorum. But that it may not be possible for this penalty to be inflicted through prejudice or taken advantage of for partisan purposes, a two-thirds vote is required for the expulsion of a member. It would be exceedingly difficult to secure such a vote, except in case of the most patent delinquency or the grossest misbehavior.

3. *Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the journal.* The effect of this clause is to put the members of each House on record before the people, by showing how their votes were cast on important measures. This enables the voters to know what their Senators and Representatives are doing on their behalf, and aids them in determining whether they shall again return the same members to Congress or replace them by different men.

Also, and primarily, this provision is for the benefit of the two Houses, in order that they may have a record of their past transactions, to which they can refer, from time to time, as occasion arises.

As there are proceedings the immediate publication of which might be highly imprudent, especially in time of war, or as affording opportunity for pernicious speculation, each House is left free to withhold such portions of their transactions as, in their judgment, require secrecy.

On the whole, these provisions impose a most salutary restraint on Congress and provide a very valuable safeguard for the interests of the people.

4. Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

It is conceivable that, but for this provision, differences and disputes might arise between the two Houses, which would lead one of them to adjourn to such a time as to so interrupt legislation as to render it abortive; or, from time to time, to such places as would compel the other House to follow it all over the country, to the embarrassment of public affairs and the loss of dignity on the part of Congress.

It may be here noticed that the word, "session", as used in relation to Congress, has two meanings: one, as here used, meaning from the time when Congress first meets to the time of its final adjournment; and the other, from the time when the members meet on one day to the time of their adjournment on the same day.

Section 6.

1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid

out of the Treasury of the United States. The present compensation of the members of both Houses is the same, \$7500 per annum, and travel fees, or mileage, of \$8 for each twenty miles of necessary travel in going to and returning from their homes. In addition to this, each member receives a yearly allowance of \$1200 for clerk hire, and one of \$125 for stationery. Congressmen are also privileged to the free use of the mails; this is called the franking privilege. The amount of the salaries of Senators and Representatives is fixed on the theory that these offices are of such high honor, and patriotic opportunity, that the services rendered in them are not to be measured by a money payment; yet that no person should be compelled to decline them, and thus withhold his services from the public welfare by reason of his financial inability to live comfortably while so serving.

They shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same. Since the abolition of imprisonment for debt, this provision of the Constitution does not possess its former importance. Its theory is, that as public affairs are always to be preferred to private interests, no member of Congress ought to be arrested, and thus prevented from performing his public duties, except for crime. This immunity is limited, however, to the time when such members are actually engaged in the discharge of their duties. A similar provision is made in the several States for the members of their legislatures, and by the law-making bodies of foreign countries, for theirs.

And for any speech or debate in either House, they shall not be questioned in any other place. The force of this provision is, that a member of either House may not be called to

account before the courts for any utterance on the floor of the House. If this were not so, members might be restrained from the frank expression of their opinions or the full statement of their knowledge by the fear of being harassed in the courts by actions for slander, being summoned as witnesses, and the like. While this privilege is liable to some abuse, yet it is an immunity of high and necessary importance; for entire freedom of discussion is essential to the intelligent and responsible action of any legislative body.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office.

The objects of this provision are:

First. To prevent any member of Congress, during the term for which he shall have been chosen, from deriving the benefit of any office in whose erection he shall have assisted, or of any office already in existence, whose emoluments he shall have helped to increase. This is a very necessary provision to guard against corrupt bargains on the part of members of either House of Congress.

Second. To prevent the General Government from acquiring undue influence in the legislative councils of the country, by having its officers take part in making the laws for its direction. This clause applies to such officers of the United States only during their continuance in such employ. They may resign their office under the United States, and are then eligible for election to seats in Congress. In this con-

nection, it may be noted that neither Senators nor Representatives in Congress are officers of the United States within the meaning of the Constitution.

Section 7.

1. *All bills for raising revenue shall originate in the House of Representatives.* In the United States, as in England and most other countries, all revenue bills must originate in the popular branch of the legislative assembly. This provision embodies the principle which led directly to the Revolution — no taxation without representation. It is one of the most important of all the provisions contained in the Constitution; for it insures to the people control of their government. All departments of government must be powerless, if the people, through their House of Representatives, do not furnish funds, raised by means of revenue bills, to be apportioned by congressional legislation. The power of the purse is the power of government.

But the Senate may propose or concur with amendments, as on other bills. By this qualification of the power of the House of Representatives, in relation to bills for raising revenue, the Senate is given the power to treat such bills as though they had taken their origin within its own body. The Senate may propose amendments to revenue bills, concur with amendments, or reject, in whole or in part, such proposed bills. This is in the nature of a check, or safeguard, against the abuse of the power granted to the other House. Many such checks and safeguards between the different branches and departments of government are provided by the Constitution. Indeed, that instrument provides for a most wonderful system of checks and balances.

If one branch of the Congress passes a bad bill, the other branch may amend it, or reject it altogether. If both Houses unite in passing such a bill, the President may veto it. If the President vetoes a desirable or necessary bill, the Congress may, by a two-thirds vote, pass it over his veto. If the President, or other civil officer, violates his oath of office or the laws of the land, Congress may impeach and remove him; while, if a member of either House of Congress becomes criminal or corrupt, the House to which he belongs may expel him. If a bill transcending the legislative power be enacted, the Supreme Court may declare it unconstitutional; and, if the people are dissatisfied with such decision, they may amend the Constitution. Such examples might be almost indefinitely multiplied: they serve to show the wonderful harmony and balance of the form of government under which we live.

2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States. As it would not be feasible to submit every bill passed by Congress to the people for their decision as to whether or not it ought to become a law, the Constitution provides that all such bills (or drafts of laws) shall be submitted to the President, as the chief minister of the people, for his approval or disapproval.

If he approve, he shall sign it. If the President signify his approval of a proposed law, so submitted to him by Congress, by signing it, it at once becomes a part of the law of the land.

But, if not, he shall return it, with his objections, to that House in which it shall have originated. The President's formal disapproval of bills passed by Congress is called his *veto* (from the Latin word *veto*, meaning, I forbid.). This is a most salutary check on hasty and ill-considered legislation. The President must not only show his disapproval of such a

bill by refusing to sign it; but he must return it to that House in which it originated, with his reasons for objecting to it. This course enables the people and their representatives in Congress to judge of the President's wisdom in rejecting the proposed law, and serves as a check on the President himself, preventing him from rejecting good bills from mere whim, or for party or other advantage.

Who shall enter the objections at large on their journal. In order that such objections may be matters of public record, easily accessible for reference.

And proceed to reconsider it. The objections of the President may be of such a nature that they can be met by some alteration of the bill as originally proposed, or by the supply of some omission; or, it may be that the House in which the bill originated will see fit to pass it over the President's veto, in the manner prescribed in the sentence next following in this clause of the Constitution.

If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House. After careful consideration and mature deliberation, it may appear to the House of Congress in which such bill originated, that the objections of the President were not well taken. In this event, if two-thirds (not a simple majority, as on the first passage of a bill) of the members present are still in favor of its passage, they may, after a vote has again been taken, send it, together with the objections of the President to the other House for final action.

By which it shall likewise be reconsidered. The presidential office is held in such high respect, that the Constitution provides that the President's objections to a bill can only be disregarded after a full and mature consideration by both Houses of Congress, of those objections, and an equally full

and careful reconsideration of the bill to which they apply.

And, if approved by two-thirds of that House, it shall become a law. The framers of the Constitution thus provided that, after a bill has been passed by a majority of both Houses of Congress, then reconsidered in connection with the President's objections to it, and finally, after debate and discussion, passed by a two-thirds vote of each House of Congress — it shall become a law. It is reasonable to suppose that there is more collective wisdom in such action by two Houses of chosen representatives than there is in the judgment of any single man, however eminent in ability and patriotism.

But, in all such cases, the votes of both Houses shall be determined by yeas and nays; and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. The passage of a bill over the veto of the President is a matter of so much gravity and importance that it is to be effected only with the greatest formality and the greatest care to guard against mistakes.

In Congress, as in other deliberative bodies, a vote is usually taken in the following manner:—

The President, Speaker, or other presiding officer, after the object of the vote has been stated, says, in substance, "All who are in favor, say *aye*." In response to this, those who are in the affirmative say *aye*. He then proceeds to put the question negatively, saying, "Those opposed, say *no*," and the members respond in like manner. If the presiding officer is unable to determine in this manner whether or not the bill or resolution has passed, he may direct the voters to divide into two separate parties, so that their respective numbers may be counted.

But there are cases in which the number of voters is so evenly divided; or, like the matter under present considera-

tion, of so great importance, that a more solemn and certain method of deciding the question and recording the result is necessary. In such cases, the names of the individual members or voters are called aloud, usually alphabetically. At the call of his name, each member rises, and records his vote by saying *yea* or *nay*, as the case may be. The clerk, or secretary, notes the vote of each voter after his name. When all have so voted, the clerk reads aloud the name and the vote of each member, or voter, in order that any mistakes may be corrected. This method shows who, of the members or voters, are present and who, absent; and results in a permanent and certain record of the transaction, which record is always available for reference or information. The constituents of a member of Congress have the right to know how he votes on important occasions and important questions, and this is shown by the journal.

If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it. It may be that a bill is of such a nature, or is so drawn, that the President is unwilling to give it his positive approval; yet his objections to the bill are not sufficiently serious to impel him to return it to the House in which it originated, with his veto. In such case, the Constitution provides, in this clause, that if the President take no action during ten week days, the bill shall become a law in like manner as though he had signed it.

Unless the Congress, by their adjournment, prevent its return; in which case it shall not be a law. Were it not for this proviso, it would be possible for Congress to completely nullify the President's power of veto by the simple expedient of an adjournment for a few days. It is, therefore, provided

that if Congress, by their adjournment, prevents the return of any bill or bills by the President, such shall not become laws.

The usual course of a bill through Congress is as follows:—

After the introduction of the bill, which introduction may be by any member, with the consent of the House; by order of the House; or on the report of a standing or select committee,—the bill is read aloud on three several days (a bill may be read more than once on the same day, by special permission of the House), during which time it is discussed and debated, and may be amended. It is then put to vote. If the proposed measure receive a majority of the votes of those members present, it is signed by the presiding officer of that House and sent to the other House, for its action. If the second House, in like manner, passes the bill, without amendment, it is also signed by the presiding officer of that House, and sent to the President of the United States for his approval or disapproval. If, however, the second House attaches amendments to the bill, such amendments must be sent to the House proposing the bill for the approval or disapproval of that House. Either House may concur in amendments to a bill, proposed by the other House; may reject such amendments; or may reject the bill as a whole. The President has no power to amend or alter any bill.

3. *Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment), shall be presented to the President of the United States, and, before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be re-passed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.*

An order, a resolution, or a vote, is very similar to a bill, but more simple in form. The former usually begin, "Be it resolved," or "ordered"; while the latter begins with the words, "Be it enacted." Orders, resolutions, and votes, like bills, become laws when concurred in by both Houses of Congress and approved by the President of the United States; or, after the lapse of the required time without his approval; or in the event of their passage by a two-thirds vote of both Houses, over the President's veto. If it were not for this provision of the Constitution, Congress might effect substantial legislation in these forms, in disregard of the President's power of veto, and by a majority instead of by the required two-thirds vote of each House. Orders, resolutions, and votes, are subject to the same formal requirements of passage and approval as are acts passed in the ordinary form of legislation.

CHAPTER VI.

ARTICLE I. OF THE CONSTITUTION.

Section 8.

The Congress shall have power,—

1. *To lay and collect taxes, duties, imposts, and excises.* Without money with which to pay its necessary expenses, government could not be carried on. For this reason, the first power granted to Congress (after the manner in which laws may be passed, is prescribed) is, the power to lay and collect taxes, duties, imposts, and excises. But, by the 5th clause of section 9 of this Article, no export duties may be imposed. Taxes are rates or sums of money assessed by the government, for the use of the Nation, or by the States, for public uses, on the persons or the property of citizens. Duties are sums of money required by government to be paid on the importation, exportation, or consumption of goods. Imposts, or customs, are duties or taxes laid by government on goods imported into the country. Excises are inland duties or imposts laid on articles produced or consumed within the country; as, the excise tax on liquor, tobacco, and the like.

To pay the debts. In time of war, and sometimes in time of peace, the ordinary revenues of the country are insufficient to meet the unavoidable expenses of the government. This leads to the necessity of borrowing money and incurring debt. If Congress were not able to raise by taxation the money wherewith to pay such loans and debts, it would be impossible to find either lenders or creditors; and the government might be overwhelmed or might fall to pieces.

And provide for the common defence and general welfare, of the United States. This is a most comprehensive provision; and under it almost unlimited powers are given to Congress for the raising of money by taxation and its expenditure at discretion. Without the power to protect itself from domestic discontent and foreign aggression, the country might, and probably would, fall a prey to contending factions or to invading nations. Provision for the general welfare of its citizens is a prime requisite to every enduring government. Of all governments, a free government must be built upon the prosperity and general welfare of its citizens. No clause in the Constitution is more wide-reaching and beneficial in its effects and more all-embracing in its purposes than is this.

But all duties, imposts, and excises shall be uniform throughout the United States. To be just, taxation must be even-handed. Congress is here required to be impartial in imposing taxation, and to show equal favor to every State and to all portions of the United States.

2. *To borrow money on the credit of the United States.* In the last clause of the Constitution, Congress was given power to pay the debts of the United States. In this clause, they are given the power to contract loans on the credit of the nation. How necessary is this provision, is shown by the fact that during the late civil war the expenses of the government were three thousand millions more than it was able to raise during that period by taxation. Had it not been for this power to borrow money on the national credit, the Union must have been disrupted.

3. *To regulate commerce with foreign nations.* If this power had been left to the several States, the most serious embarrassments would have arisen from opposing interests and conflicting laws. Pursuit by each State of its own supposed

advantage, in jealousy and disregard of the rights and needs of other States, would soon have led to retaliation, and eventually, to disunion.

And among the several States. The growth of commerce, manufactures, and transportation; the being or non-being of cities and towns; and the continued prosperity of the different sections of the country and of the country as a whole, depend very largely upon the manner in which Congress wields the power given by these five small words — words of all the words in the Constitution among the most vital and important. Unless inter-state commerce be wisely fostered and judiciously and impartially regulated: commerce must languish; communities be stifled in their growth, or else inordinately fattened at the expense of other communities; and the wealth and property of the nation pass into the hands of a favored and unscrupulous few, who, in unrestrained control and exercise of the means of production and transportation of the country, will batten on the nation's very heart-blood. It is hardly putting it too strongly, to say that the success of our republican form of government is wrapped up in the wise regulation of the commerce between the States.

Within recent years, the construction and application of this clause has overshadowed in importance almost every other provision of the Constitution. Under it are sought to be regulated, railroad rates, the operations of trusts, the inspection of packing-house products, the adulteration of foodstuffs and medicines, and the like. But it must be kept in mind that Congress has no control over commerce arising and terminating within any single State.

And with the Indian tribes. This provision was made for the protection of the Indians from the varying restrictions of different States; and, as well, from the greed of unscrupulous

traders who would prey upon their ignorance and their weaknesses. The Indians have become, in effect, wards of the Government, by whom they are protected and, where necessary, cared for.

4. *To establish a uniform rule of naturalization.* As the citizens of each State are citizens of the United States, and, as such, entitled to all the rights and privileges of the citizens of every other State, it is obvious that it would work injustice if the qualifications for citizenship on the part of aliens were not uniform throughout the country.

The requirements of the Naturalization Act are: that a person must have resided within the country for at least five years before he can become a citizen (but not a soldier or a sailor honorably discharged from the service of the United States); that at least two years before naturalization can be granted, he must have made an oath before a court of competent jurisdiction that it is his *bona-fide* intention to become a citizen of the United States; and that he must take the oath of allegiance to the United States. Before he is permitted to take this oath, he must present to the court granting the certificate of citizenship, the oaths of witnesses as to his five years residence, his good character and conduct, and his behavior as one attached to the principles of the Constitution of the United States. When all these requirements have been satisfactorily complied with, the court grants him a certificate of citizenship. A naturalized citizen is, before the law, entitled to all the rights and privileges of a natural-born citizen.

On the naturalization of an alien, his children under twenty-one years of age, residing in this country, become, without other formality, citizens of the United States.

The wife and children of an alien who has declared (before a court of competent jurisdiction) his intention of becoming

a citizen, but dies before taking out his certificate of citizenship, may become citizens by taking the necessary oath.

And uniform laws on the subject of bankruptcies, throughout the United States. The object of bankruptcy law is, to relieve debtors who are honestly unfortunate from the burden of their debts, upon the surrender to their creditors of all their property. As the people of the several States may have mutual relations as debtors and creditors, it is evident that laws governing the absolute cancellation and discharge of indebtedness must be uniform throughout the land, in order to obviate favoritism and injustice; and that these functions must be in the hands of the General Government, and not in the hands of the individual States, which are, elsewhere in the Constitution, prohibited from passing laws impairing the obligations of contracts.

Under the National Bankruptcy Law, any person (except a corporation) who owes debts may procure his discharge from such indebtedness (except certain classes of debts, as those incurred fraudulently, and the like) by surrendering for the benefit of his creditors all of his property not subject to exemptions, in the manner prescribed by law and under the direction of the United States courts.

And any person (except a wage-earner or a farmer), and most corporations, who owe one thousand dollars or more and neglect or refuse to pay the same, may be petitioned into involuntary bankruptcy by three or more creditors whose claims aggregate not less than five hundred dollars.

5. *To coin money.* This is one of the prerogatives inherent in sovereignty. As money is the measure of value of all articles subject to sale, it is obvious that, to facilitate business transactions, such coinage must be in the hands of the central

government, and not subject to various standards fixed by forty-five or more separate States.

Regulate the value thereof. This gives the Federal government power to require that all money coined by it shall be legal tender for the payment of debts throughout the United States. The reason for this is evident; for it would be almost impossible to transact the ordinary business of life, if, when a debt has been incurred, there were no rule for its discharge other than the arbitrary demand of the creditor or the equally arbitrary proffer of the debtor.

Coins of the United States are made of a uniform fineness, or alloy, and each coin is stamped by the government with its exact value as fixed by law.

And of foreign coin. The value of foreign coins is determined by finding how much gold or silver they contain.

And fix the standard of weights and measures. This power is granted to Congress on the same theory that the power to coin money and regulate its value is granted. It is self-evident that uniformity of weights and measures in the several States would greatly facilitate commerce between the several States and with foreign countries. However, Congress has never exercised this power, and each State is free to regulate its own weights and measures.

6. *To provide for the punishment of counterfeiting the securities and current coin of the United States.*

Without this power to punish counterfeiting, the last clause of the Constitution would be valueless and without effect. The country would soon be overrun with false coins and tokens, and the values of the coins made by the government, and of articles of sale measured by that coin, would be of uncertain worth.

7. *To establish post-offices and post-roads.*

Of all the functions of our Government, the postal service is that which comes oftenest and closest home to every citizen. Men may, and do, go through life without ever seeing or coming in contact with any soldier, sailor, or servant of the other departments of government; but the post-master (and the post-office) is familiar to every inhabitant of the country, and is, to many, the only tangible evidence of the existence of the general government. On the prompt and systematic conduct of the postal service, depends, in a large measure, the commerce and business of the country; and, as well, the frequent, safe, and secret communication between friends and relatives. In many foreign countries, the telegraph, telephone, and express systems are administered by the post-office departments; and it is not impossible that this will eventually be the case in this country.

8. To promote the progress of science and useful arts, by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.

In this clause, the framers of the Constitution recognized the truth that a person is entitled to a right of property in the products of his brain, as well as in the work of his hands and the returns from his business sagacity. By this provision, Congress is given the power to grant and to regulate, patents for inventions and discoveries, and copyrights for writings and other compositions. But, as inventions, discoveries, and original compositions, are considered to be matters of public interest and concern,—these are placed upon a somewhat different plane from ordinary property. Exclusive right to and in them is only given to their authors or originators, on certain conditions and for limited terms. It is not just that the discoverer of some great and useful fact or knowledge, by which the well-being of all humanity and of future genera-

tions may be affected, should be able at his whim or in his greed to withhold and control such discovery or knowledge from the service of humanity forever; or that himself, his heirs and assigns, should be able perpetually to exact an inordinate price for the use of the product of his intellect.

9. *To constitute tribunals inferior to the Supreme Court.*

This provision is supplemental to that creating the Supreme Court (Art. III.-1.-1.), and can best be considered when treating of that tribunal.

10. *To define and punish piracies and felonies committed on the high seas.* The acts constituting piracy are defined by the Statute of Piracy. In general, piracy may be said to be organized robbery and depredations committed on the high seas. It is an offence against organic society, so grave that it is visited by the severest punishments. A pirate is considered to be beyond the pale of society and without the protection of its laws. Owing to the progress of society, the invention of the sub-marine cable, the increased power of artillery, the use of steam for the propulsion of vessels, and the united action of all civilized governments for its extermination,—piracy has practically disappeared from the seas, except in some portion of the Malay archipelago and the China seas.

By felony, may be understood any grave crime committed against the persons or property of others; and by high seas, those waters of the ocean which are three miles or more beyond the coast lines of the different countries. As vessels hail from different States and as the punishments of felonies also vary in the several States,—this provision of the Constitution places the jurisdiction over such crimes, when committed on the high seas, in the hands of the general government, in order that the administration of justice may be uniform in

this respect. It must be understood, however, that pirates are beyond the protection of any country and are subject to the jurisdiction of any nation who may apprehend them.

And offenses against the law of nations. This power on the part of the United States, to punish offences against the law of nations, applies only to its own citizens. The law of nations is a term whose scope is well understood, but is not susceptible of precise definition. It may be said to consist of the acknowledged rules that regulate the mutual intercourse of nations. International law varies from time to time, with a constantly growing tendency toward the dictates of humanity and the requirements of equity. All nations are equally interested in its enforcement; and a failure to enforce it by any government against its citizens or a neglect to observe it by the nation itself, may lead to war.

11. *To declare war.* War is the last resort of nations. Its declaration is of such solemn and momentous import, not only to the nations directly involved, but to the world at large, that this high prerogative of sovereignty should only be invoked after all other remedies have failed, and then, with the most careful and deliberate formality. As it would be impracticable to submit such a question directly to the people for their determination, and the interests involved are too weighty to be decided by any one individual, however wise and prudent, — this great power has been judiciously vested in both Houses of Congress.

Grant letters of marque and reprisal. Letters of marque and reprisal constitute a commission from a government authorizing the bearer, in time of public hostilities, to pass beyond the limits of his own country and to capture as prizes the goods and persons of the enemy. The more usual application of the term is to marine affairs only. In former days,

when ships-of-war were of much the same size and construction as merchant-vessels, it was the custom of private owners to arm and equip their vessels as *privateers*, for the purpose of assistance to their own government and for profit from preying upon the commerce of the enemy. In the present day, through agreements and understandings between the principal civilized governments, privateers are no longer commissioned by such letters of marque and reprisal. It must not be understood that it is against the law of nations, or that governments have no longer the right to do this, except as they are bound by agreements among themselves; but that growing feelings of humanity and justice are more and more leading to the exemption of persons and of property (excepting contraband of war) of non-combatants, from the risks of war. By the rules of war, private property on land is no longer taken without compensation, or destroyed, except in cases of necessity; and, doubtless, this just course will eventually come to be pursued in regard to private property on the seas.

And make rules concerning captures on land and water. Rules are necessary for governing the procedure in relation to captures on land and sea, whether made by private individuals or by government forces. The taking of private property on land has, as has been noted, been practically abrogated, except in cases of necessity and on the payment of a just compensation; but on the sea, the case is different. Here, private vessels of the enemy, with their contents, and contraband of war in neutral bottoms, are still subject to capture and seizure by war vessels of either contending party. Cognizance of all cases arising from such captures and seizures at sea is before special admiralty courts called prize courts.

12. *To raise and support armies.* As the dignity of the Nation and the maintenance of the integrity of its territory

may at any time compel us to engage in war with other countries, it is an essential element of our continued existence as a nation, that power to raise armies be lodged in the government. And as a necessary correlary of this authority, power for their support must be also granted, without which, armies could not be maintained.

But no appropriation of money to that use shall be for a longer term than two years. Popular prejudice in this country, against standing armies, so often used in the Old World to subvert the liberties of the people, has always been very strong. It is argued that, without a strong army, no despot can ever rise to power. As long as the people retain control of the money by which armies are supported, they retain control of the armies themselves. By this proviso of the Constitution, in relation to the support of armies, Congress is prohibited from appropriating money for such military use, except the expenditure of that money be limited to within a period of two years. It will be noticed that, as the term of membership in the House of Representatives is also two years, the people retain to themselves the power to change the entire personnel of the House, within the period for which it has power to vote supplies for the support of the army. In practice, appropriations for the army are made from year to year.

13. *To provide and maintain a navy.*

The geographical position of our country, isolated from efficacious land-attack at the hands of other great powers, together with our extended coast-line, has rendered, and will continue to render, the maintenance of an adequate navy of far greater importance than the support of a large army. An efficient army can be organized almost before even the keel of a battle-ship can be laid; and it is altogether probable that any war in which we may engage will have ended long before

a ship-of-war can have been completely built. Our greatly extended coast-line, which has been constantly growing, almost from the beginning of the Republic; our distant island possessions; our great cities located on the sea-boards; our fisheries, commerce, and navigation — all demand that we should have an ever-ready navy, proportionate in power to the interests to be safeguarded.

It will be noticed that the Constitution places no limit, as it does in the case of the army, on the time for which money can be appropriated to the use of the navy. This is not only because it takes several years to construct a first-class battleship and because the service of the navy in distant seas sometimes requires that provision be made in advance for long periods of absence; but also because there has never been that popular jealousy and distrust in relation to the navy that has existed in regard to the army. Many dictators and tyrants have been created by armies; none, by navies. The dignity and safety of the nation demand an adequate navy — to command respect and deference abroad, and to secure and insure liberty and safety at home. The past achievements of our navy have rendered this branch of the service very dear to the hearts of the people.

14. *To make rules for the Government and regulation of the land and naval forces.*

Upon discipline, which can only be secured by the enforcement of proper rules and regulations, depends almost entirely the efficiency of both army and navy. Without such discipline, an army is but an armed mob, more dangerous to friend than foe; and a navy, a collection of uncoherent units, the ready prey of an active and intelligent enemy. The power to make rules and regulations for the government of our forces is, then, a necessary and natural concomitant of the power to

raise and maintain armies and navies. Infractions of naval and military laws, and the like, are punishable by court-martial. But for civil crime in time of peace, the offenders are delivered up to the civil authorities of the place having jurisdiction.

15. *To provide for calling forth the militia to execute the laws of the Union.* By *militia* may be understood all able-bodied male citizens between the ages of 18 and 45, enrolled in the several States; and, in a more narrow sense, as distinguished from the regular army, the organized military forces of the several States, which become national forces under the command of the President, only when in the actual service of the United States. The chief dependence of this country, in time of war, has always been on its citizen-soldiery — on the hearts of its people and not on the bayonets of a professional army. This was the theory of the framers of the Constitution, and this has been the gloriously successful practice of the Nation in all its wars. It is far more uplifting to the spirit of the people to rely upon the militia organization of the several States, than upon a large standing army — more economical in practice, and less dangerous to the liberties and to the martial spirit of the nation. The experience of the past has so successfully demonstrated the wisdom of this plan, that there is little reason to apprehend a change in our policy, while we continue to remain an agricultural, manufacturing, and commercial community and a peace-loving, justice-doing people.

It has been seldom necessary to call out the militia for the execution of the laws of the Union, but such a contingency should always find us fully prepared.

Suppress insurrections. Domestic insurrection might find the regular army too few in numbers, or too widely scattered,

to quickly and successfully cope with the trouble. The power to provide for the calling out of the militia in such an event is of inestimable importance.

And repel invasions. One of the great military powers of the Old World might, but for this reliance, pour upon our shores an army impossible to be coped with, by our relatively small standing army. In such contingency, our main dependence must be upon our militia, which our great resources of men and money enable us to rapidly expand to any necessary extent.

16. *To provide for organizing, arming, and disciplining the militia.* This power is granted to Congress in order that the militia may be of equal and uniform equipment and training in the several States and adapted to serve in conjunction with the regular military forces of the Nation.

And for governing such part of them as may be employed in the service of the United States. The militia is to remain under the sole control of the respective States, except during such times as it may be actually engaged in the service of the United States.

Reserving to the States respectively the appointment of the officers. If this power were not reserved to the individual States, the general government would, at all times, control the militia of the several States, through the appointment of officers responsible only to the national government.

And the authority of training the militia according to the discipline prescribed by Congress. It is only just that each State should have control of its own militia, for preserving peace, suppressing riot, enforcing law and order, and the like; and authority over the discipline of the same; because the members of the State militia are not professional soldiers, but are citizens of the several States, engaged in the usual duties

and activities of civil life. It is equally just that Congress should have power to prescribe the discipline of the militia in all the States; in order that such discipline be uniform and the troops of each State capable of effectual combination with the troops of the other States and with the regular army of the United States.

17. *To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the Government of the United States.* Under this clause the District of Columbia was (in 1800) acquired from Maryland and Virginia. Later, that portion of it on the Virginia side of the Potomac was ceded back to Virginia; so that, the present District of Columbia is restricted to the Maryland side of the river. It is self-evident that the dignity of a nation requires that the nation itself should have absolute control, in all cases whatsoever, of the place of meeting of its law-making bodies and of residence of its Chief Magistrate, and other important public officers. It is inconceivable that the seat of government of our great Nation could be permitted to be subject, in any respect, to the jurisdiction of any of the individual States composing the Nation.

And to exercise like authority over all places purchased, by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings. As all public works (such as those named in this clause) are, wherever they may be located, administered by the general government under uniform rules and regulations, it is obvious that they should not be subject to the respective laws and jurisdictions of nearly half a hundred States. But that Congress may not have the power to destroy the sovereignty of any State by alienating

its territory under pretense of purchase for public works, it is provided that such property can only be acquired with the consent of the legislature of the State in which it shall be situated.

If such purchases are made without any restrictions, the States in which the places are located lose all legal authority over them, both civil and criminal, all jurisdiction becoming National and being administered in the United States courts. The States have not, of themselves, power to arrest a murderer who has taken refuge in a building or on a property owned by the Government, or even to serve the most unimportant warrant, writ, or other legal process. But, in most cases, the several States have reserved to themselves the right to serve all State writs and processes, civil and criminal, upon persons found within such government purchases.

18. *And, to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.*

This is the most comprehensive clause in the whole Constitution. It is in the nature of a blanket-provision, covering any omissions in the affirmative powers granted to Congress and providing a way for carrying out the intent and purpose of the Constitution in all cases, present and future. Although this provision may be liable to some abuse or forced construction, it must, on the whole, be considered one of the wisest provisions of that wise instrument. It renders the Constitution an expansive, progressive, and living instrument—for all times and under all conditions—rather than a hide-bound document adapted only to the age and the ideas in which its framers lived.

CHAPTER VII.

ARTICLE I. OF THE CONSTITUTION.

Sections 9 and 10.

Section 9.

1. *The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.*

This provision governed the importation of slaves, until the year 1808, when the slave-trade was abolished. It has already been noticed that, before the XIIIth Amendment to the Constitution, the words, "slave" and "slavery," are carefully kept out of the text of the Constitution, their place being taken by such circumlocutions as the present, that is, "the importation of such persons as any of the States now existing shall think proper to admit."

2. *The privilege of the writ of Habeas Corpus shall not be suspended, unless when, in cases of rebellion and invasion, the public safety may require it.*

A writ is a command in writing, under seal, issued by a court or magistrate of competent jurisdiction, enjoining the performance or non-performance of some action by the person to whom it is directed. A writ of *habeas corpus* commands the person to whom it is directed, to produce before the court issuing the writ the body of some person named therein, who, it is alleged, is illegally restrained of his liberty.

Of all the formal rights of persons asserted in the Constitution, none is, to the individual, more important than this; for, when a person is for any cause restrained of his liberty, this writ serves to effect his release forthwith, unless it is affirmatively shown that such restraint or imprisonment is by due process of law.

Any person who is imprisoned, or some other person on his behalf, may make an affidavit that he is unlawfully restrained of his liberty and asking the court to whom application is made to issue a writ of *habeas corpus*. Upon such an application, to a court having jurisdiction in the premises, a writ of *habeas corpus* usually issues, commanding the jailor or other person in whose custody the person detained is alleged to be, to bring the body of the one so detained before the court on a specified day and to return, endorsed on the writ, the reason or authority by which the person detained is held in custody or restraint. This writ is read to the jailor, or other person, to whom it is directed and a certified copy of it is served on him.

On the day specified in the writ, the one to whom it is directed must produce the detained person in court; and must show to the court by what authority or right he detains in custody the person on behalf of whom application for relief is made. If such reason or authority for so holding in custody the person detained, is deemed by the court to be legally sufficient the detention or imprisonment is continued; but if such right or authority be adjudged by the court to be insufficient in law, the detained individual is at once discharged from such imprisonment or restraint.

This proceeding does not in any way decide the merits of the cause for which such person may have been imprisoned or restrained; but simply rules that the formalities of law,

in relation to his imprisonment, have not been complied with. It is quite possible for a guilty person to be illegally imprisoned or for an insane person to be illegally kept under restraint; as, for instance, when the papers committing such persons to custody have been improperly made out, and the like.

There are three circumstances, and three only, under which an application for a writ of *habeas corpus* may be properly denied: First, when the person so applying has been committed for contempt of court; second, when such imprisonment is by reason of a final judgment of a competent court; and, third, when the writ has been suspended by proper authority. This last is the exception authorized by the clause of the Constitution under present discussion.

3. *No bill of attainder, or ex-post-facto law, shall be passed.*

A Bill of Attainder is a law in the British Parliament for the purpose of attainting (rendered infamous and incapable of inheriting property or passing it to heirs) and punishing a particular individual, without such individual first having been tried and convicted by a court. An *ex-post-facto* law is one "which renders an act punishable in a manner in which it was not punishable when it was committed:" as, if, after a man had stolen a horse, the penalty for doing which was five years imprisonment, a law should be passed, applicable to such person, making the punishment ten, instead of five years.

Bills of Attainder and *ex-post-facto* laws are so manifestly acts of gross injustice and so opposed to the genius of our country, and of freedom itself, that it might seem hardly necessary to make special provision against them in the Constitution. But both of these measures had been so often abused by the governments of the Old World, for the punish-

ment of individuals obnoxious to parties in power (notably in the celebrated case of the Earl of Strafford), that the framers of the Constitution wisely placed it out of the power of any party to alter the usual course of justice in this respect.

4. *No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.*

In the first Section of this Article of the Constitution provision is made for taking, every ten years, an enumeration, or census, of the population of the country. In this clause, Congress is prohibited from laying any manner of direct tax on the people, except such tax be in proportion to the population, as shown by the census so taken: that is, direct taxes must be apportioned among the several States in proportion to the number of their inhabitants.

It is under this clause of the Constitution that, in recent years, the Supreme Court of the United States decided that a law laying a tax upon incomes of over a certain amount was unconstitutional. This matter of taxing all incomes of above a certain sum (as is done in Great Britain and other countries) is a very important one; and agitation is constantly going on, both in and out of Congress, looking to an Amendment to the Constitution, which will permit this to be done in the manner proposed, or to legislation which will effect the same purpose, without coming into conflict with the provisions of the Constitution.

5. *No tax or duty shall be laid on articles exported from any State.* Owing to the different interests and productions of the several States, any taxation of exports would necessarily bear more heavily on some States than on others. And, as all States are, under the Constitution, entitled to equal treatment,

any system of unequal taxation, or other discrimination, must be prohibited.

No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another. For the same reason that the imposition of export duties is prohibited, Congress is inhibited from laying any regulations of commerce or revenue which shall give a preference to the ports of one State over those of another. All laws and regulations applying to any of the several States must apply equally to every one of them under like conditions.

Nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties, in another. This is a limitation of the power of Congress to regulate commerce (Art. I.-8.-3.) between the States. The placing of duties and taxes on interstate commerce is here prohibited.

6. *No money shall be drawn from the treasury but in consequence of appropriations made by law.* This clause places upon Congress the responsibility for the expenditure of the public revenue. It also serves to hold all public officers to economy and faithfulness in the use of public money. Before any department of government or any public officer can expend even as much as a single dollar, they must have shown to Congress why and for what it was wanted; and Congress must have made a specific appropriation for the purpose. Not even the President of the United States can draw his salary, unless an appropriation of the amount has first been made by Congress.

And a regular statement and account of the receipts and expenditures of all public money shall be published from time to time. In order that Congress may know that it has been expended in the manner directed; and for the information of the people at large, who are clearly entitled to know how their

money is being employed. Publicity and responsibility are the two great safeguards against carelessness, extravagance, and dishonesty. When it is considered that hundreds of millions of dollars are each year appropriated to public purposes, the necessity of every possible check and safeguard in the disposition of the public funds is apparent.

7. *No title of nobility shall be granted by the United States.* The corner-stone of our liberties is, the equality of all men before the law. All citizens are free to win wealth and distinction by their own efforts and abilities; but the government is prohibited from raising up classes and ranks.

And no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince or foreign State. This is in order that our representatives, at home and abroad, may not be subjected to the temptation of any form of bribery or other improper influence, either direct or indirect. If, as sometimes happens, a foreign government desires to show its appreciation of some distinguished service to humanity, on the part of some officer under our government (as in the case of rescue at sea and the like) by the bestowal of some medal, decoration, order, or other distinction of honor,—Congress usually grants permission to such officer to accept the gift. When, as is sometimes the case, a foreign government presents to the President specimens of its arts or of its rare animals and productions, it is customary to regard these as gifts to the Nation, and to deposit them in the national archives, for public exhibition.

Section 10.

1. *No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money;*

emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex-post-facto law, or law impairing the obligation of contracts; or grant any title of nobility.

The powers here prohibited to the several States are powers that have elsewhere in the Constitution been expressly granted to Congress, or prohibited to that body; or, are such as are inconsistent with the power of the general government to carry out the purposes for which it was instituted.

2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports or exports shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships-of-war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

These also are powers the exercise of which by the several States would nullify powers already granted to Congress, or defeat the purposes for which the general government was erected.

CHAPTER VIII.

ARTICLE II. OF THE CONSTITUTION.

Section 1.

1. *The executive power shall be vested in a President of the United States of America.* By this clause, the entire executive power of the Nation is placed in the hands of one man — the President of the United States. The wisdom and knowledge required in making good laws is best secured from the collective efforts of a deliberative assembly; but the energy and decision necessary for their prompt and firm execution is most likely to be found in the mind of a single individual. The chief duty of the President is to enforce the laws made by Congress, after they have been enacted and have become effective. The President has no title other than that of his office; and is addressed simply as, "Mr. President", or, "Sir."

He shall hold his office during the term of four years. This term of four years represents a compromise between those members of the Constitutional Convention who were in favor of limiting the presidential term to two years, and those who proposed that the Chief-Executive should hold office for life. Although the Constitution does not prohibit the re-election of a President for any number of consecutive times; yet the electorate has regarded the example of Washington in refusing a third term, as having almost the force of an unwritten law against more than two terms. No President has been re-elected, or even renominated, after his second term. By many, it is believed that better results would be secured if the presidential term were made six, or even eight, years and an incumbent made ineligible for election to two successive terms.

And, together with the Vice-President chosen for the same term, be elected as follows. The election of a Vice-President, for the same term as the President, is here provided for. The terms of both begin on the fourth day of March next after their election.

2. *Each State shall appoint, in such manner as the legislature thereof may direct, a number of Electors.* The selection of Electors for President and Vice-President has been given by the legislatures of the several States to the people, who choose the Electors directly by ballot. Thus, the people practically elect the President and Vice-President through the appointment of Electors instructed for whom to vote. While there is no way to compel an Elector to vote according to his instructions; yet the probability of such Elector acting contrary to his directions is so remote as to be negligible. The word "electors" is often used to denote simply, voters. The two uses of the word should not be confounded.

Equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress. Provision is here made that the number of Electors from each State shall correspond to the representation in Congress of that State. This gives to the several States a voice in the selection of President and Vice-President, proportionate to their membership in Congress, which, it will be remembered, is based on their populations.

But no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an Elector. This provision is to prevent office-holders under the government from exerting an undue influence in the selection of a Chief-Executive who is to be their superior officer; and to preclude the legislative department of government (Congress) from exercising through its members a dis-

proportionate voice in the selection of the head of another department, who has the power of veto over its enactments; and of his possible successor, who is, *ex-officio*, the presiding officer of the Senate.

3. *The Electors shall meet in their respective States, and vote by ballot for two persons, one of whom, at least, shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of Electors appointed; and, if there be more than one who have such majority and have an equal number of votes, then the House of Representatives shall immediately choose, by ballot, one of them for President; and, if no person have a majority, then, from the five highest on the list, the said House shall in like manner choose the President. But, in choosing the President, the votes shall be taken by States, the representation from each State having one vote: a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of the votes of the Electors shall be Vice-President. But, if there should remain two or more who have equal votes, the Senate shall choose from them, by ballot, the Vice-President.*

This clause of the Constitution has been entirely superseded by the twelfth Article of Amendments, under the consideration

of which the procedure of the Electors will be fully examined. This Amendment (the 12th) was passed owing to the unsatisfactory manner in which the provisions of the clause under present discussion worked in practice: the change being especially due to the prolonged contest in the House of Representatives (in 1801) over the contest between Thomas Jefferson and Aaron Burr, the former being elected on the thirty-sixth ballot.

4. *The Congress may determine the time of choosing the Electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.*

The day finally fixed for the choosing of Electors is the Tuesday next after the first Monday in the month of November of the year in which the President is to be chosen. The day fixed for the Electors (who, as a body, are known as the Electoral College) to give their votes for President and Vice President of the United States, is the first Wednesday in December after their election. The places of their meeting are left to be chosen by the respective State legislatures; and are, usually, the Capitals of the several States.

By fixing a day certain for the choice of Electors, which day is the same throughout the United States, the formation of political combinations to control these offices, and the use of other corrupting influences, is, to a certain extent, guarded against. The same remark applies to the designation of a single day on which all the Electors shall give their votes.

5. *No person, except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President.* A person need not necessarily be born within the limits of this country, to be a natural-born citizen of the United States: for instance, he may be the son of the American Minister to Great Britain, and

born in London during his father's incumbency in that office. In such case, he is a natural-born citizen of the United States, and eligible to the office of President.

Provision is also here made that foreign-born citizens of the United States at the time of the adoption of the Constitution should be eligible to the office of President. Although the condition covered by this provision ceased to exist very many years ago, it is gratifying to remember that such sturdy patriots as Albert Gallatin and John Paul Jones were thought not unworthy, by reason of their birth, for the highest office within the people's gift.

Neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years. This age was fixed as one at which the mental powers have reached their fullest maturity and at which a candidate has had the opportunity of being long enough before the people to demonstrate his capacity and fitness for the Chief-Magistracy of the Nation.

And been fourteen years a resident within the United States. It was considered that even a native of this country could not possess a sufficient knowledge of his country and its institutions to qualify him for the office of President, unless his residence shall have been within the limits of his country for, at least, this period of fourteen years.

6. *In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President.* The office of President is one of so great importance, and the country might be thrown into so great turmoil and confusion by reason of his death or other cause of inability to discharge the functions of his office,—that it was obviously necessary to make some provision for such contin-

gency. By this clause, in such case, the duties and powers of the President devolve upon the Vice-President. By "inability to discharge the powers and duties of the said office" is here meant, not such temporary inability as might result from serious illness, but some more permanent disability; as, the complete overthrow of the reason, and the like.

And the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President. Under this provision, Congress has named to act as President, in the order named,—the Secretary of State, Secretary of the Treasury, Secretary of War, Attorney-General, Postmaster-General, Secretary of the Navy, and Secretary of the Interior. No provision is made for the succession of the other Cabinet-Officers; their departments not having been erected at the time of the passage of the law governing this subject.

And such officer shall act accordingly until the disability be removed, or a President shall be elected. The contingency here provided for has never occurred. But it may be noticed that in the event of a member of the Cabinet succeeding to the duties of the office of President, he would not himself become President, but would merely act as President. Moreover, this succession is annexed to the respective Cabinet offices, and not to the individuals who may be occupying them. The effect of this is that such Cabinet-Officer could not resign his Cabinet office and continue to act as President. He would be obliged to retain his Cabinet position and to rely upon his Assistants to perform the greater portion of the duties pertaining to that position.

With the Vice-President the case is different. When he succeeds to the duties of President, at least in the case of death,

he succeeds to the office of President. This has never been formally decided, but Congress has always confirmed this right by its actions; as in the case of Andrew Johnson, who was impeached by the House of Representatives under the title, "President of the United States."

7. *The President shall, at stated times, receive for his services a compensation.* For many years, this compensation was fixed by Congress at twenty-five thousand dollars a year, but during the first term of General Grant this salary was raised to fifty thousand dollars (to take effect after the expiration of that term). In 1907, the President's salary was again raised, to \$75,000—taking effect after the expiration of President Roosevelt's term.

Which shall neither be increased nor diminished during the period for which he shall have been elected. This is an eminently proper restriction. It is conceivable that a President might be elected who would become subservient to Congress in return for an increased salary during his term of office; while, on the other hand, if Congress were free to diminish the President's salary at pleasure, he would not have that degree of independence of Congress, which is contemplated by the Constitution.

And he shall not receive within that period any other emolument from the United States, or any of them. This prevents Congress from increasing the President's salary through any subterfuge; and prohibits him from placing himself under obligations to any of the several States.

But this prohibition does not extend so far as to restrain Congress from furnishing to the President an official residence, known as the White House, the expense of furnishing and maintaining which is largely defrayed at public cost. This is entirely proper; for many public functions must take

place at the official residence of the President: Foreign Ministers are received there; State banquets are held there; there the Cabinet meets; and there the President has his executive offices.

8. *Before he enter on the execution of his office, he shall take the following oath or affirmation:—*

9. *"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States; and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."*

This oath, or affirmation, is administered on the 4th day of March following the election of the President, usually by the Chief Justice of the United States.

Section 2.

1. *The President shall be Commander-in-Chief of the Army and Navy of the United States.* By this provision the President is placed in control of the regular armed forces of the country — in time of war, as well as in time of peace. It has not been customary, in practice, for the President to take personal command of the army in the field: he exercises his control through the appointment of the commanding officers of the different divisions of the army and by planning the broad lines of attack and defence. The Secretary of War has, under the direction of the President, chief charge of the administration of the army. It would, of course, be out of the question for the President to leave the government, in time of trouble, for the purpose of taking personal command of our fleets at sea; but these too he commands, through the Secretary of the Navy, and by directing the general plan of their operations.

A very important application of this clause is, that it keeps the military power of the nation in subordination to the civil power — the President being a civil magistrate.

And of the Militia of the several States when called into the actual service of the United States. It has ever been the rule of action of this country to rely upon its militia for defence; maintaining a relatively small standing army as the nucleus, or backbone, of the larger force to be called out in time of need. It is axiomatic that, to be effective, all the military forces of a nation must be directed along a single line of policy and by a single head. There must be unity of purpose, unity of plan, unity of action, and unity of discipline; or confusion, and perhaps disaster is bound to ensue. For these reasons, the President is constituted the Commander-in-Chief of the militia of the several States, *when in the actual service of the United States.*

The reason for this limitation of the time when the militia of the several States is under the command of the President is, that every individual State is, within its own borders, as sovereign in its functions as is the United States, except as to such portions of its sovereignty as it has yielded up to the general government, through the adoption of the Constitution. It would be inconsistent with this reserved sovereignty, were the United States, through their President, to exercise control over the militia of any state, except when in the actual service of the Nation.

He may require the opinion, in writing, of the principal officer in each of the Executive Departments, upon any subject relating to the duties of their respective offices. It is obvious that the President cannot exercise personal supervision over all of the executive departments under him; and equally obvious that the intelligent execution of his duties may, at any

time, require him to be fully advised as to matters within the knowledge of the principal officers of these departments. This provision gives him specific authority to call upon such officers for advice and information concerning such matters as are within their respective provinces.

And he shall have power to grant reprieves and pardons for offenses against the United States. The correction of possible error; the softening of the rigors of inflexible justice, in special cases; and, sometimes, political expediency, render it advisable that somewhere in every government be vested the power of pardon, commutation, and reprieve. In our country, so far as offences against the United States are concerned, this power is, by this provision, vested in the President. But it must be noticed that the President has no authority to pardon offences against the several States, or offenders condemned by State courts. Each State provides for its own procedure in this regard. The pardoning power is, in its nature, judicial.

Except in cases of impeachment. As judgment in cases of impeachment can extend no further than to removal from office and disqualification to hold other office under the United States; and as this judgment can only be pronounced by a two-thirds vote of the court of greatest dignity in the land, the Senate, at the instance of the House of Representatives, it was not felt that offenders so convicted are proper subjects for executive clemency.

2. *He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur.* The treaty-making power is one of the most important functions of government, involving, as it does, the relations of one country with the nations and governments of the rest of the world. By a treaty, may be understood an agreement between two nations; formally negotiated,

duly signed, and solemnly ratified by the supreme power in each nation.

This clause of the Constitution provides that such treaties may, on the part of the United States, be made by the President, "by and with the advice and consent of the Senate." The word "advice" does not here mean that the Senate must be consulted during the negotiation of a treaty. The advantages to be derived from treaties often depend upon their provisions being kept secret pending negotiations; and it might prove highly hazardous to such secrecy, if the President were obliged to consult with a body as numerous as the Senate, while arrangements were being made. The words, "advice and consent" are, in this connection, to be understood together; and are complied with when, after the negotiation of a treaty, this is submitted to the Senate for discussion and concurrence. Treaties, like other matters of great moment, require for their passage, or ratification, a two-thirds vote of the Senate. This is on the theory that a treaty, which binds each of the several States, even if in conflict with its laws and its constitution, should represent the judgment, not merely of a majority of the States whose representatives are present in the Senate, but of at least two-thirds of them. The Senate may, at its pleasure, amend, alter, or reject, in whole or in part, treaties, as in the case of other measures.

Treaty-making usually proceeds substantially as follows:—

The terms of the proposed treaty are arranged by the Ambassadors or Ministers of the respective governments, or by Commissioners especially appointed for the purpose, working under the direction of the State Departments of the contracting powers.

After conditions satisfactory to the Executives of the two governments are agreed upon, the treaty is submitted (on the

part of this country) to the Senate of the United States for their action. It is by them debated and discussed in secret, or executive, session; and may be altered, amended, or rejected, in whole or in part, if they so see fit. In the event of amendment or alteration, the treaty must be again submitted to the President, and also to the foreign government which is a party to it.

If two-thirds of the Senators present vote to confirm the treaty, it is ratified; otherwise, it is rejected.

And he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for. While the power of appointing the higher officers under the Government (except such as are elsewhere in the Constitution provided for) is, by this provision, given to the President; these appointments must be such as are satisfactory to the Senate. In practice, the President, before nominating a person to such office, usually consults the Senators of the State in which the proposed appointee resides. If such appointment is satisfactory to them, the nomination is, ordinarily, promptly confirmed by the Senate. Sometimes, however, this is not the case; and so much opposition develops that the nomination has to be withdrawn by the President, or is rejected by the Senate.

And which shall be established by law. The President has no power to erect new offices. This provision makes it impossible for him to provide for favorites or accomplish other unworthy ends, by the creation of sinecures and the multiplication of offices.

But the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone,

in the courts of law, or in the heads of departments. The number of the minor and subordinate officers employed under Government is so great that it would be practically impossible for the President or for Congress to appoint them individually. Moreover, it is self-evident that the responsible chief of a department is usually better qualified to select his own assistants and immediate subordinates than is any other authority to do so for him. This provision, while retaining the power of appointment of the superior and responsible officers under the government in the hands of Congress, permits that the selection of minor officers be delegated to those who are more immediately responsible that the duties of such officers be properly performed. Under this clause, also, other provision may be made for the selection and appointment of minor officers and subordinate clerks, mechanics, laborers, and the like.

Nearly three-quarters of all the employees of the Government (not including post-masters) are now selected by competitive examination under the Civil Service laws.

The Civil Service system is under the supervision of the Civil Service Commission, which consists of three members appointed by the President. Of these, two only may belong to the same political party. These Commissioners arrange and manage the Civil Service examinations; make appointments to vacancies, from among those passing the best examinations; and, in general, superintend the application of the laws relating to the Civil Service.

Under the Civil Service Commission, public examinations are held at stated times and places, throughout the United States, at which examinations all persons who are eligible to appointment under the Civil Service laws may apply for examination as to their fitness and capability. Vacancies in

the classified service are filled from among those of such applicants who pass the best examinations. Persons so appointed cannot be removed from their positions except for good cause and after a fair hearing.

Any citizen of the United States, of suitable age, is entitled to make application for a position in any branch of the public service to which the civil service rules apply. Such application must be made under oath and be accompanied by such certificates as may be prescribed; as to good character, and the like.

In the examinations, a candidate must obtain an average of at least 70 per cent. in order to qualify him for appointment. But veterans of the army and navy, honorably discharged, need obtain an average of only 65 per cent.; and are entitled to preference when appointments are made.

No person addicted to the habitual use of intoxicating liquor to excess will be appointed or retained in the Civil Service. Nor will persons who have been guilty of crime or other notoriously disgraceful conduct. Physical disability is a good cause for rejection. So, the making of a false oath or statement to secure appointment.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions, which shall expire at the end of their next session.

Were there no power to fill vacancies occurring during the times when the Senate is not in session, great confusion might ensue, and certain departments under the government be brought almost to a standstill. To obviate the possibility of this, the President is here authorized to commission temporary appointees, whose commissions shall expire at the end of the next session of the Senate.

Section 3.

1. *He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient.* In compliance with this provision, the President sends to Congress, at the beginning of each session, his annual message. In this message he reviews the condition and the wants of the nation, and recommends to Congress the passage of such legislation as he deems especially important. At this time, too, the Cabinet Officers make their annual reports to Congress, showing what has been accomplished in their respective departments and presenting estimates of the amount of money needed for the coming year and the purposes for which it is needed. Congress is under no legal obligation to take action on the measures proposed in the President's message for their consideration; but such recommendations are, under all circumstances, entitled to the most respectful treatment. The annual messages of the different Presidents have varied greatly in length — from a comparatively few paragraphs to the length of a moderately large book. In addition to his annual message, the President often sends special messages to Congress, treating of matters which have newly arisen or of subjects reserved in his annual message for more specific treatment.

He may, on extraordinary occasions, convene both Houses, or either of them. Events may occur unexpectedly which demand the immediate action of Congress, as the sudden outbreak of hostilities; or, a Congress may have failed, during its regular session, to enact legislation of the utmost importance to the interests of the country; or other emergency may arise which necessitates the meeting of Congress during the

ordinary time of recess. Under any of these circumstances, the President may convene them in special session. This is a matter of not infrequent occurrence.

And, in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. In the event of the happening of the remote possibility here provided against, there can be no question but that the President is the one most proper to intervene.

He shall receive ambassadors and other public ministers. In all civilized nations, it is customary for the head of the state to receive the ambassadors and other public ministers of friendly powers. This provision simply requires that ordinary international usage be followed. But the President is not required to receive an ambassador or other public minister who is personally objectionable to him, or who is objectionable to the Government.

He shall take care the laws be faithfully executed. In this one sentence is set forth the chief reason for placing the President at the executive head of the Nation. Should he fail in enforcing the laws of the land, for which ample power is given him, he would be subject to impeachment, and perhaps to other punishment. But his concern is only with the laws of the United States; the enforcement of the laws of the several States is not within his province.

And shall commission all the officers of the United States. This is a common-sense provision, naturally springing from the position of the President as Chief-Executive of the Nation.

Section 4.

1. *The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeach-*

ment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

This clause provides that civil officers, on impeachment and conviction, *must* be removed, and only leaves it optional with the Senate whether or not to disqualify them from again holding office under the United States. This is as it should be; for it would be intolerable, if officers of the government, convicted of such offences, could, through any means, be continued in their offices.

Military officers are, for such offences, tried and punished by court-martial.

CHAPTER IX.

ARTICLE III. OF THE CONSTITUTION.

Section 1.

1. *The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish.* The judicial power of the nation could be nowhere better placed than in a Supreme Court. But no one court could adjudicate all the cases properly subject to its authority. Nor would it be possible (on account of the distance, time, and expense involved) for all suitors to come to a single place in pursuit of the remedies afforded them by such a tribunal. Hence, the power given to Congress for the establishment of inferior courts. In addition to the Supreme Court of the United States, there have been established by Congress three classes of Federal courts: viz., The Circuit Court of Appeals of the United States; the circuit courts of the United States; and the district courts of the United States. There are also, Territorial courts, commissioner's courts, and a Supreme Court of the District of Columbia, each having its especial jurisdiction.

In connection with the United States courts, there are grand juries, petit juries, district attorneys, marshals, clerks, and reporters, whose several functions are analogous to those of similar officers of the State courts.

For the more convenient administration of justice, the territory of the United States is divided into circuits (some of which embrace several States) in each of which are several judges, presided over by a Supreme Court judge, who is

required to attend at least one term of his court every two years. Each circuit, also, is divided into several districts, each presided over by a district judge. The jurisdiction of all of these courts is National, not State. Each State has its own independent judicial system for the adjudication of its own internal affairs.

The Supreme Court is the one feature of our governmental system that commands the especial admiration and respect of every foreign nation.

The Judges, both of the Supreme and inferior courts, shall hold their offices during good behavior. This provision is very necessary to ensure the independence and impartiality of the judges. If their tenure of office was subject to curtailment through political influence or partisan bias, there would be such possibility of their decisions being influenced by political or other unworthy considerations, that this lofty tribunal might fail to command that degree of confidence and respect which is essential to its greatest usefulness. When the judges of the Supreme Court have attained the age of seventy, they may retire with full pay for life, provided they have been judges for ten years.

And shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office. This provision, like that last above referred to, is essential to the independence of the judiciary. They must not discharge their duties in the fear that, through an unpopular decision, their salaries may be cut down. Congress has, however, power to increase their salaries; this on the theory that these positions must be made attractive to the best legal minds.

Section 2.

1. *The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made and which shall be made under their authority.* While the courts have no power to alter the Constitution or to change laws and treaties, yet cases are constantly arising in which contending parties place different constructions on these instruments; or where the instruments themselves are susceptible of different interpretations. Under such conditions, it is the province of the courts to decide the meaning and application of the disputed laws — to construe, explain, and define them.

To all cases affecting ambassadors, other public ministers, and consuls. That is, to cases affecting such officers in their official capacities, or in their intercourse with citizens of other nations.

To all cases of admiralty and maritime jurisdiction. There are in the United States no separate Courts of Admiralty; but admiralty jurisdiction is, by this provision, given to the Federal courts. By admiralty jurisdiction, may be understood the power to hear and determine all cases originating on the high seas or on navigable waters communicating with the seas and out of the jurisdiction of the ordinary courts of justice. In order that a uniform rule of justice shall apply to all such cases, it is evident that they should be tried in the courts of the Nation, and not in those of the individual States.

To controversies in which the United States shall be a party. This refers only to cases in which the United States is plaintiff. The United States cannot be sued in any court. It would be contrary to the sovereign dignity of the nation to admit a right, on the part of any individual, any State, or

another nation, to sue it, either in its own or in any other courts. But it is not to be conceived that the United States would take advantage of this immunity to deny or avoid any just or equitable claim. Relief in such cases may be sought through petition to Congress or by application to courts of claims established for the purpose of investigating such cases and recommending action to Congress. A somewhat similar practice occurs in all countries.

(To controversies between two or more States,) between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects. In all these classes of cases, it is obvious that impartial justice can best be looked for from the national tribunals. It must be understood, however, that under no circumstances can any State (except as herein provided), foreign government, or ambassadorial representative, be made a party defendant in any court, State or Federal. All these may sue—none be sued. Remedies of private citizens for grievances against States and nations must be sought by petition to themselves; it being presumed that they will always voluntarily measure out exact justice. The eleventh Article of Amendment to the Constitution (which is treated in its proper place) may be profitably studied in connection with these provisions concerning the powers of the Federal courts.

2. *In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction.* This clause specifies the two (and two only) classes of cases in which the Supreme Court has original (as opposed to appellate) jurisdiction: cases in which a State shall be a party, and cases

affecting the ambassadors, public ministers, and consuls, of foreign governments. By "original jurisdiction" is here meant that suits, in the classes specified, can be tried in the Supreme Court from their very beginning, both as to law and facts. Where cases can only be heard on appeal from the decision of some lower court, the jurisdiction is said to be *appellate*.

In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make. This gives appellate jurisdiction, as to both law and fact, to the Supreme Court in cases other than the two classes considered in the last paragraph. Ordinarily, courts of appellate jurisdiction take cognizance of points of law only, the findings of trial courts as to matters of fact being final.

3. *The trial of all crimes, except in cases of impeachment, shall be by jury.* It is a fundamental right of citizenship under a free government, that no man shall be deprived of life, liberty, or property, but by the law of the land or the judgment of his peers. The right of trial by jury is one of the most cherished possessions of the Anglo-Saxon race. By this provision, all convictions of crime, except in cases of impeachment, must be by the verdict of a jury, in the United States as well as in the State courts. This subject is further treated of in Articles V. and VII. of Amendments to the Constitution; q. v.

And such trial shall be held in the State where the said crimes shall have been committed. It is evident that a person charged with crime would, by removal to a distant point for trial, be prejudiced in the conduct of his defence. He might be constrained to entrust his defence to strange and incom-

petent counsel; because unable to persuade those whom he would have chosen to take a long journey, or through inability to meet the expense involved in this course, and the like. In addition to this, it would be imposing a great and unnecessary hardship upon witnesses, to oblige them to leave their daily occupations to attend trials at a distance; and would involve both them and the defendant in burdensome expense. One of the principal moving causes of the Revolution was the proposal on the part of Great Britain to remove certain alleged offenders to England, to be tried in that country for offences claimed to have been committed in this.

But, when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed. This provision covers such crimes as may be committed at sea, in government reservations, unorganized territories, and the like.

Section 3.

1. *Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort.* Treason is the highest crime of which a citizen can be guilty. In foreign countries there are many forms of treason (in England, five) and often there is uncertainty as to just what acts are necessary in order to constitute this crime. From this, at times, great injustices have resulted. Acts and circumstances, innocent in themselves, have, by forced construction, been tortured into treason; and thus, many innocent lives have been offered up—to gratify revenge or to remove obstacles from the paths of those in power. In this country, by this clause of the Constitution, treason can be committed in two ways, and in two ways only:

by levying war against the United States, or, by adhering to their enemies, giving them aid and comfort.

No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court. By this provision, there can be no treason without an overt (or open) act — there can be no *constructive treason*. And this open act must be proven by the testimony of at least two witnesses. Or else, it may be proven by confession in open court. This confession must be *in open court*; for the law looks with a suspicious eye on confessions made elsewhere. It regards these as likely to have been made under the influence of threats or other constraint, promises, misrepresentations, and the like. But if made in open court, with a full knowledge of its effect, a confession is not liable to this objection.

2. *The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.*

Congress has fixed as the penalties for treason; death, imprisonment for a term of not less than five years, and, a fine of ten thousand dollars. *Corruption of blood* involves the loss of the right to inherit property or to transmit it to heirs. This was formerly, under despotic governments, a favorite penalty; for, by it, the property of those so convicted escheated to the crown.

CHAPTER X.

ARTICLES IV.-VII. OF THE CONSTITUTION.

ARTICLE IV.

Section 1.

1. *Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings, of every other State.* This clause provides that the legal effect and the validity of the laws, records, judgments and other judicial proceedings of one State must be recognized by all the other States.

And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof. Under this authorization Congress has made provision whereby such acts, records, and judicial proceedings are provable; and has declared that they shall have the same effect in every court within the United States that they have in the courts of the State in which they originate.

1. *The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.*

If it were not for this provision, the citizens of the several States might be subjected to almost endless annoyances and discriminations in travelling, trading, purchasing and selling property, and moving and removing in and between the various States. But, as, by this clause, a citizen of one State is entitled to all the privileges and immunities of the citizens of the several States, his citizenship becomes National.

2. *A person charged in any State with treason, felony, or*

other crime, who shall flee from justice and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

This clause provides that persons formally charged with grave crime, who are alleged to be fugitives from justice, shall, on demand, be delivered up to the authorities of the State in which such crime was committed and from which they have absented themselves. As the officers of a State have no authority to make an arrest beyond the boundaries of that State, this provision for the extradition of persons charged with crime prevents any State from being used as an asylum or harbor of refuge by criminals from another State.

The Act of Congress for the enforcement of this clause provides, in substance,—

That the Governor of the State demanding the surrender of an alleged criminal must make, on the Governor of the State in which such criminal is alleged to have taken refuge, a requisition, or demand, for the return of such fugitive. This demand must be accompanied by a certified copy of the indictment against the fugitive, or by an affidavit, duly authenticated before a magistrate, alleging that the person demanded has committed a specified crime within the State making the requisition and is a fugitive from justice. It then becomes the duty of the Governor of the State in which such alleged fugitive criminal may then be, to cause his arrest and detention, pending his delivery for trial to the properly authorized agent of the State seeking his extradition.

But this act of Congress is so drawn that the Governors of States use some discretion in its application.

It may be noticed here, that we have extradition treaties with nearly all foreign nations whereby fugitive criminals

are mutually delivered up to the country whose laws they are alleged to have violated. But such treaties do not apply to offenses that are purely political.

3. *No person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.*

This provision has reference to slaves only, and is, therefore, no longer of living interest.

Section 3.

1. *New States may be admitted by the Congress into this Union.* This provision was made necessary by the vast domain, unsettled and unorganized, wrested from Great Britain through the successful termination of the Revolution. As this success was due to the joint efforts of all the Colonies, it was felt that the territory so acquired should belong to the nation as a whole, and not be divided among those States on which it bordered. For this reason, the several States surrendered all special claims on these lands and also conveyed to the general government title to a portion of the Western lands which had belonged to some of them before the Revolution. From these lands, new States were to be erected as circumstances warranted. Nearly all the territory within the United States proper has been organized into States, which have been admitted into the Union 'on an equality, in all respects with the original thirteen States'. Since the adoption of the Constitution, the domain of the United States has been vastly augmented: by purchase from France, Mexico, and Russia; by the annexation of Texas and Hawaii; and by successful wars with Mexico and Spain.

But no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned, as well as of the Congress. The larger States feared that their more extensive territories might be cut up into a number of smaller States, thus lessening their relative importance; while the smaller States were equally afraid that they would be consolidated with others, thus extinguishing their identities. This provision quieted the apprehensions of both these parties.

2. *The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory, or other property, belonging to the United States.* There can be no right of absolute ownership in anything without a corresponding right of alienation, or disposal. Ownership also carries with it the right of regulation and control. Under this clause, Congress has the power to regulate and govern all territories of the United States not organized and erected into States; and to sell, or otherwise dispose of, all lands belonging to the Government.

Under the provisions of the Homestead Act and other laws, Congress has disposed of millions of parcels of unoccupied lands to immigrants and other actual settlers; and has donated to new States and Territories immense tracts for school and other public purposes. Also, a considerable portion of the public domain has been given to railroads to encourage their construction. But the United States still possesses a vast territory subject to settlement, or included in National Parks and in Indian Reservations.

The portions of the territory of the United States not included within the limits of any of the several States are gov-

erned as; organized Territories, unorganized Territories, and colonial, or foreign, possessions.

The government of an organized Territory is somewhat similar to that of a State. The voters of such Territory elect a legislature, but this legislature can only make such laws as are authorized by Congress. Each Territory also has a Governor, judges, and other officials, but these are appointed by the President of the United States. A Territory is represented in Congress by a delegate who sits in the House of Representatives and has most of the privileges of a member of that body, but who has no vote. Territories have no constitutions. The inhabitants of Territories and colonial possessions have no vote in national affairs.

Some portions of our domain, as Alaska, remain as unorganized Territories, not being believed to be yet fitted to receive the degree of self-government accorded to the organized Territories. Congress makes all the laws for the government of unorganized Territories, and the President appoints all their officers.

Our foreign possessions, Porto Rico and the Philippines, are practically governed as colonies. In many respects the form of their government resembles that of an organized Territory. Their inhabitants are not citizens of the United States.

And nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State. This provision applied only to Western lands which were afterward ceded to the United States by the individual States claiming their ownership. The provision has no present-day interest or application.

Section 4.

1. *The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the legislature or of the executive (when the legislature cannot be convened), against domestic violence.* This clause guarantees that the republican form of government shall continue to obtain in every part of the Union. It also gives to the United States the right and power to preserve peace and stability within its borders; and secures to the several States quiet and protection within their respective limits. The general government cannot, however, intervene in the domestic affairs of any State except on the application of the legislature of the State, or, when the legislature cannot be convened, by the executive head of the State.

ARTICLE V.

1. *The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress.* The framers of the Constitution were well aware that that instrument, as adopted, might, in some respects, prove inadequate to its intended purposes; or that progress, changed conditions, or the future wants of the nation might require its amendment, or alteration, in some particulars. This clause provides the way

of making such amendments — by submitting them to the several States.

Congress itself has no power to alter or amend the Constitution in even the smallest particular. Its power in this direction is limited to the initiatory steps by which propositions of amendment may be submitted to the several States; and to the direction whether such proposed amendments shall be ratified directly by the legislatures of the several States or by constitutional conventions called for that purpose in each State.

The manner of amending the Constitution is:—

Whenever, in the judgment of two-thirds of both Houses of Congress it shall be necessary, or on the application of the legislatures of two-thirds of the several States, Congress shall, either itself propose amendments, or else, shall call a convention for proposing such amendments. These amendments, when ratified by three-fourths of the several States, become parts of the Constitution, to all intents and purposes. This ratification shall be by the legislatures of three-fourths of the several States or by conventions in three fourths of them, as Congress may direct. Thus, no alteration in the Constitution can take place without the affirmative action of three-fourths of all the States of the Union. Fifteen amendments have been added to the Constitution since its original adoption, and it may well be found needful to further amend it in the future. In recent years there has been much agitation in favor of an amendment to require that Senators of the United States be elected directly by the people, instead of by the various State legislatures.

Provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall

be deprived of its equal suffrage in the Senate. The first of these two provisoes no longer possesses other than a historical interest, the time of limitation having long since expired.

But the second, that no State can, without its own permission, be deprived of its equal representation in the Senate, is still in force; and is the only portion of the Constitution which cannot, without disrupting the Union, be altered or amended, except with the consent of each State affected by such amendment. The one right that cannot be taken away from any State by the vote of three-fourths of all the States is the most jealously guarded and tenaciously insisted upon prerogative of the smaller States. By it, the smallest State can continue to retain a representation in the Senate equal with the largest. It is not at all likely that any State will ever be induced to consent to its own diminished representation in the Senate; and this provision of the Constitution will probably be co-eternal with the Union.

ARTICLE VI.

1. *All debts contracted, and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States, under this Constitution, as under the Confederation.*

This is simply such a declaration of the intention of the government under its new form (under the Constitution) to respect the contracts and obligations incurred under the old form (under the Articles of Confederation), as is demanded alike by the moral law, the public faith, and the practice of nations.

2. *This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the*

United States, shall be the supreme law of the land. This is one of the most pregnant of all the prescriptions of the Constitution — it gives efficacy to the whole instrument. It provides that State laws and State Constitutions shall be subordinate: — First, to the Constitution of the United States; second, to laws of the United States made in accordance with the provisions of the Constitution; and, third, to all treaties of the United States, made under the Constitution.

This last provision, that treaties shall be the supreme law of the land, has assumed a new and increased importance with the expansion of the United States into a world-power, and the consequent increased number and importance of its complicated treaties. When the provisions of a treaty come into contact with State laws and constitutions, even though these be not otherwise in conflict with the laws and the Constitution of the United States, the treaty must prevail. In such event, questions very difficult of solution and adjustment may arise.

The effect of the clause as a whole is, that the authority of the United States, and not that of the several States, is supreme in all parts of the land. Without such a provision, the Constitution would have failed in its intention — the United States would have been without the authority necessary to create a government.

And the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding. The judges of the several States are thus especially charged in relation to their duties arising under this provision, not because they are bound by it to a greater degree than other officers, and citizens; but because, having taken an oath of office to support the laws and constitutions of the States in which they serve, as well as those of the United States, it was deemed advisable to thus specifically provide that

in the event of conflict between the institutes of the several States and the laws, treaties, and Constitution of the United States, the latter should prevail.

3. The senators and representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

The propriety of requiring from all persons, elected throughout the United States to make laws or chosen to administer justice, a solemn oath or obligation that they will support the Constitution, on which our government is founded, is self-evident. The provision that no religious test shall be required is equally proper. This is a country dedicated to liberty; and every man is as much entitled to liberty of conscience as he is to liberty of life.

ARTICLE VII.

1. The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

By this article, the ratification of nine States was made sufficient to put the Constitution in force; and to bind the States so ratifying to its obligations and entitle them to its benefits. Before ratifying the Constitution, it was within the choice of every State to enter the Union under its provisions, or to remain without the Union and continue an entirely separate political entity, with all the attributes of sovereignty. But once having ratified the Constitution, the States so ratifying

became integral parts of the Union. The right of a State to withdraw from the Union was, however, undecided, until the result of the Civil War rendered a decisive adverse verdict.

New Hampshire was the ninth State to ratify the Constitution. This ratification was received by Congress in July, 1788; and on that date our present government may be said to have begun.

CHAPTER XI.

THE AMENDMENTS TO THE CONSTITUTION.

Articles I.-V.

One of the strongest objections urged against the adoption of the Constitution, as originally framed, was that it contained no Bill of Rights or other affirmative assertion of certain personal rights and privileges which were popularly held to be fundamentally basic of a free government. Some minor defects were also evident, and others developed themselves almost as soon as the Constitution went into effect. Several of the State Conventions, in ratifying the instrument, suggested certain provisions for curing these defects and for strengthening and perfecting the Constitution.

In compliance with these suggestions and that popular feeling, the first ten of the amendments to the Constitution, which are of the nature of a bill of rights, were proposed by the First Congress (in 1789), and, having been ratified by the requisite number of States, became effective in 1791. The eleventh article of amendment was proposed by the Third Congress, in 1794, and became effective in 1798. The twelfth article of amendment was proposed by the Eighth Congress, in 1803, and received the ratification of the required number of States in 1804. The remaining articles of amendment grew out of the Civil War, and were ratified at the time of that struggle or immediately after its close.

Article I. of Amendments.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. Many of

the early settlers of this country had fled hither solely that they might enjoy freedom from restraint in religious matters. While our forefathers were a profoundly religious people, they were bitterly opposed to even the thought of a State religion — as their descendants continue to be to this day. To that feeling was due this provision, which requires that Church and State shall remain absolutely independent, the one from the other.

Or abridging the freedom of speech or of the press. Freedom to speak and print all proper opinions, arguments, and information, for or against any principle or movement, and concerning any person seeking public office or support, is a privilege so high and so essential to the maintenance of free institutions, that it is difficult to overestimate its importance. But this is not an unrestrained liberty; this freedom does not extend to the libel or the slander of another; and the courts enforce a strict accountability for the abuse of free speech.

Or the right of the people peaceably to assemble, and to petition the government for a redress of grievances. Under monarchical governments not only have the people, at times, been prevented from peaceably assembling and petitioning the crown for a redress of their grievances; but the case has frequently been that such grievances have been entirely unknown to the ruler, from the fact that this right to peaceably assemble and petition had been denied to the people. But this right is inherent in a free people; and, by this provision, the government is precluded from denying to American citizens their birthright of peaceable assembly and petition.

Article II. of Amendments.

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

Standing armies, unless counterbalanced by an effective militia and a people free to provide means for their own protection, may become a menace to the liberties of any people. History records many instances where an entire nation has been kept in subjection by a comparatively small standing army, simply because there was no militia and the citizens were not permitted to keep and bear arms. Our forefathers here provided that our liberties should not be thus abused.

Article III. of Amendments.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner. Among the grievances alleged in the Declaration of Independence is the quartering of large bodies of troops among us. By the common law of England, the greater portion of which was brought with them by the original settlers of this country, a man's house is regarded as a place of peculiar sanctity, into which even the king may not enter without the permission of the owner. This is as it should be. There should be one spot on earth where each man is secured against trespass, annoyance, or illegal molestation. No invasion of the hearthstone could be more oppressive than that provided against here, the quartering of soldiers in the houses of citizens, in time of peace.

Nor in time of war but in a manner prescribed by law. The exigencies of war may, at times, for the public welfare, demand a temporary surrender or suspension of many personal rights and privileges. A person or a community may often be required to submit to present inconvenience for the permanent benefit of the many. The contingency here provided for is one of those cases. In time of war it may become necessary to quarter troops in private houses; but this can never be done

except with the consent of the owner or in a manner prescribed by law.

Article IV. of Amendments.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated. One of the principal contributing causes to the Revolution was the common practice of officers of the British Government to grant general search warrants, called "writs of assistance." These were often issued in blank, and under them, houses were broken into, private papers read and seized, and other abuses perpetrated. Such an arbitrary course of procedure is so obnoxious to the spirit of liberty that the Constitution here specifically prohibits its unreasonable exercise, thus insuring the individual against such illegal molestation.

And no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. But no man's house should be permitted to be a place for the concealment of the fruits of crime, nor a refuge for fugitives from the law. Therefore, provision is made that a magistrate of competent jurisdiction may issue warrants of search and seizure, when four conditions have been complied with. The person seeking such warrant must: first, show a reasonable and probable cause why the warrant should issue; second, make an oath or affirmation to the truth of his statements; third, particularly describe the place to be searched; and, fourth, describe specifically the persons or objects to be seized under the warrant. When these provisions have been complied with, the warrant so issued can be used only for the search of the place and the seizure of the persons or things in

it particularly described. And, if the oath or affirmation on which such warrant is issued be knowingly false, the person so swearing is guilty of perjury, and may be prosecuted and punished for that crime.

Article V. of Amendments.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury. The manner of the indictment (or the presentment) and trial of a person accused of crime has been described at length in the Sixth Chapter of the First Part of this work, to which reference may here be had. The terms, "presentment," "indictment," "grand jury," etc., are also there defined and explained. By *capital crime* is here meant, a crime punishable with death. Criminal procedure and criminal trials are very similar in the courts of each of the several States and in the courts of the United States.

Except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger. In time of war or public danger the country may be so disturbed that the usual and orderly administration of justice may be interrupted and the functions of the courts even entirely suspended. In such case, crimes should not be allowed to be committed with impunity. Nor should infractions of military discipline, the smallest of which may, at a critical time, involve the most disastrous consequences, then be permitted to follow the ordinary leisurely administration of military justice. Under such conditions, the country, or that portion of it directly affected, is placed under martial law; and criminal and military offenders are, without the formality of indictment, tried by summary court-martial or military commission. Arbitrary and despotic as this course may seem,

conditions may arise in which it is essential to the public safety. But ordinary civil disputes are not subject to such jurisdiction.

Nor shall any person be subject, for the same offense, to be twice put in jeopardy of life or limb. 'To be put in jeopardy of life or limb' is a legal phrase meaning simply, to be tried for crime. But for the provision contained in this clause, a person might be subjected to numberless trials for the same offence, although each time acquitted; and thus, in effect, receive a punishment far greater than that provided by law for the crime of which he was accused. If a trial be interrupted before the jury has rendered its verdict, or if the jury disagrees as to its verdict, no matter how many times this may happen, a person is not considered, in law, to have been placed in jeopardy; and he may continue to be tried until a jury finds him either "guilty" or "not guilty." In practice, a person is seldom again tried, if three juries have failed to agree upon a verdict. However, a person who has been convicted of a crime may, if he think that any error has been committed, apply for a new trial; and if this is granted, he may, at such subsequent trial, be again convicted, and may receive a sentence more severe than that at first adjudged against him.

Nor shall be compelled, in any criminal case, to be a witness against himself. It is manifestly unfair that a person should be compelled to convict himself out of his own mouth. Yet, for many centuries this was the uniform practice of all countries, and accused persons were even put to the most excruciating tortures in order to extort a confession. Under the influence of advancing enlightenment and under a more merciful administration of justice, torture has practically disappeared from all civilized countries (except China); and there are but few countries remaining in which a person accused of

crime is compelled to give testimony at his own trial. In this country, justice is so tender of the rights of accused persons that it is made the duty of officers taking them into custody to warn them that whatever they may say will be used against them. Even voluntary confessions, unless made in open court, are looked upon with grave suspicion.

Nor be deprived of life, liberty, or property, without due process of law. The guarantee of life, liberty, and property, is the principal object for which governments are instituted; and if a person can be deprived of these fundamental rights only by due process of law, he may be said to be secure in them. By *due process of law* is meant that certain judicial forms and principles, applicable to all similar cases whatsoever, must be followed. These forms and the manner of applying these principles are established by law.

Nor shall private property be taken for public use, without just compensation. This is an assertion of the right of *eminent domain*, or that right which inheres in every government of taking private property for necessary public uses, at a fair valuation. It is to be noticed that this government can only acquire property against the will of its owner under three conditions: it must be for public use, it must be necessary to that public use, and it must be paid for at a fair valuation. The reason for this right of eminent domain is obvious. For instance, if it were not for this power on the part of the government, an individual might own a small piece of land on which alone a fort necessary to the defence of a great city could be constructed. This property might have an actual value of but a few dollars; yet the owner, through selfishness and greed, might refuse to part with it for the national defence unless he were paid many millions of dollars. This would be intolerable; and under such circumstances the Nation

may exercise its right of eminent domain, by taking possession of the property and paying the owner a fair price, fixed by disinterested commissioners. This right has been extended to the taking of private property for quasi-public uses ; as, the building of railroads, canals, and the like.

CHAPTER XII.

THE AMENDMENTS TO THE CONSTITUTION.

Articles VI.-X.

Article VI. of Amendments.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial. An accused person is entitled to a speedy trial; because, being considered, by presumption of law, innocent, until pronounced guilty by the verdict of a jury of his fellows, it is manifestly unjust that he should be imprisoned for a lengthy period, awaiting the determination of the charge against him. Then too, the witnesses in the case may have become scattered; or, like the accused, suffer uncalled-for hardships through imprisonment while awaiting trial.

And a person is entitled to a *public* trial because justice should be done in the light of the day — openly and impartially — so that its administration may be seen and known of all men.

By an impartial jury. The right to trial by a jury of his peers is a right dear to the heart of man. The decision of such a jury may be said to embody the common-sense of the community, as the law may be said to embody the common conscience. By an impartial jury, is meant one whose members have formed no decided opinion regarding the guilt or innocence of the accused; and who can truly swear to bring in a verdict in accordance with the law and the evidence. Juries and trials are more fully discussed in Chapter VI. of Part I. of this volume, which see.

Of the State and district wherein the crime shall have been committed. This is on the theory that the people of the vicinity in which a crime has been committed are more interested in seeing justice fairly and impartially administered in relation to such crime than would be the people of a remoter district; and to the further facts that less expense is incurred by the public and less inconvenience and annoyance is caused to witnesses, when the trial is held near the scene of the commission of the crime.

Which district shall have been previously ascertained by law. Crimes against the laws of the United States are triable in the District Court of the Federal District in which they were committed; and those against the laws of the individual States are triable in the courts of the county in which the crime took place, unless, by reason of prejudice or popular excitement, a fair trial is not likely to be had. In this last event, the *venue*, or place of trial, is changed to a near-by county.

And to be informed of the nature and cause of the accusation. This information is furnished by the *indictment*. An *indictment* is a formal charge of crime or misdemeanor preferred to a court by a grand jury under oath. An indictment must be in writing and must set forth the offence "with clearness and all necessary certainty, to apprise the accused of the crime with which he stands charged." It must completely describe the facts and circumstances constituting the crime and must show that the grand jurors by whom it was found were under oath. Further, it must set forth: the court in which, the grand jurors by whom, and the time and place at which the indictment was found.

To be confronted with the witnesses against him. No criminal case can be tried unless the prisoner is present at the bar at every stage of the proceedings. He is entitled to be

confronted with the witnesses against him; that is, when they are giving their evidence at the trial. This is in order that he may be in a position to detect and refute any false statements that may be made; and in order that he may cross-examine adverse witnesses in relation to matters about which they have testified. This is one of the most valuable privileges of a person accused of crime.

To have compulsory process for obtaining witnesses in his favor. It would be unbearable if a person were liable to conviction for crime when there were witnesses to his innocence who would not testify in court to the facts within their knowledge. This provision of the Constitution enables the accused to compel the attendance of such recalcitrant witnesses.

And to have the assistance of counsel for his defence. The intricacies of the law are so great and its technical requirements so many, that a person unskilled in legal procedure is at a very great disadvantage, unless he be provided with professional assistance. In America, it might seem that this provision of the Constitution is unnecessary; yet in England, up to within a comparatively few years, a person was not, in many criminal cases, allowed the benefit of counsel. It is the practice in this country, in cases where the accused is unable to employ counsel, for the court to assign, or appoint, an attorney for his defence.

Article VII. of Amendments.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved. The importance that was attached to the principle of trial by jury is shown by the fact that it is asserted, in some form, in nearly all of the State constitutions. The object of

this provision is, to put beyond all question the right of citizens to a jury trial in civil as well as in criminal cases. The amount of \$20.00 is named simply because it was desirable to fix some sum, under which the expense of a jury trial is not warranted.

By *common law* is meant immemorial custom and that body of the English law which was in force at the time of the Declaration of Independence. In legal contemplation there are two kinds of law, both equally binding: the *common law*, above defined; and *statute law*, or laws passed by the legislatures of the different States or by the Congress of the United States.

And no fact, tried by a jury, shall be otherwise re-examined in any court of the United States than according to the rules of the common law. The rules of the common law, here referred to, are complicated and technical, and relate to the grounds on, and the manner in which a case tried in one court may be appealed to a higher court on some point of law, or on error alleged to have been committed at the trial in the lower court. If such appeal is decided in favor of the appellant, the case is sent back to the lower court for re-trial with the error corrected or eliminated. This provision applies, of course, only to the United States courts, and not to those of the several States.

Article VIII. of Amendments.

Excessive bail shall not be required. Bail is security given for the appearance of an accused person at a certain time and place to answer in court to the charges against him. The amount of bail to be given (which is usually furnished by bondsmen) is, in most cases, fixed by the magistrate before whom the prisoner is first brought, which must be as soon as

possible after his arrest. The sum in which bonds are required is usually governed by the gravity of the charge and the degree of the presumption of the guilt of the accused. While it is perfectly proper to demand a very heavy security in the case of a person charged with a grave crime, and where the probability of his guilt is strong; yet this provision insures that unreasonably heavy security shall not be required in cases of misdemeanor or in charges of trifling importance, involving neither heavy penalties nor great moral turpitude.

As a general rule, persons accused of crime are entitled to be "bailed out" on adequate security, except in cases involving the death or other highest penalty that may be inflicted under the laws of the State. When a person has given bonds for his appearance in court when wanted, he is set at liberty in the custody of the persons who have become surety for him. In the event of his failure to appear at the specified time and place, his bail is declared to have been forfeited, and the amount is collected from his bondsmen for the benefit of the State.

Nor excessive fines imposed. Some classes of crimes are punished, in whole or in part, by the imposition of fines. The intention of this provision is to prevent the imposition of fines out of proportion to the offence which they are designed to punish. The reason of this is better understood when it is remembered that in the case of a prisoner's inability to pay his fine, he is usually obliged to serve one day in prison for each dollar of the fine so unpaid. Thus, a fine of one thousand dollars might be excessive in the case of a poor man, to whom it would be equivalent to nearly three years' imprisonment; while in the case of a rich man, it would hardly be a punishment worth the name.

Nor cruel and unusual punishments inflicted. In view of

the spirit of humanity pervading the penal laws of the present day, it might seem that this provision was unnecessary. But it must be recalled that, comparatively speaking, it is but a few years since such punishments as pressing to death, boiling in oil, and tearing apart by wild horses, were frequently inflicted.

In considering criminal laws and the treatment of criminals, it should be borne in mind that such laws and such punishments are not intended to inflict revenge on the criminal for what he has done; but are corrective in their purpose. They are intended as warnings to him and to others against the commission of like crimes in the future. In short, criminal law is remedial, and not vindictive in its nature.

Article IX. of Amendments.

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people. The framers of the Constitution were haunted by the fear that, by reason of some oversight or omission, the whole intent of the instrument might be nullified. This is one of several provisions introduced for the purpose of guarding against such possibility. Silence on the part of the Constitution in regard to some of the rights of the people, neither lessens nor takes away such rights.

Article X. of Amendments.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

This provision of the Constitution is somewhat similar in intent to that immediately preceding.

From different constructions of this clause of the Constitution sprung that doctrine of State-Rights which resulted in two of the greatest crises in our history — the Nullification Acts, under the administration of Jackson, and the Secession, under the presidency of Lincoln. And signs are not wanting that another phase of the doctrine of a strict construction of the Constitution may again become foremost, in connection with a growing advocacy for Federal control of the great railway systems, trusts, and industrial combinations, which are coming to be, more and more, dominant forces in the land.

There have always been in this country two great parties — one, a party contending for a strict construction of the Constitution according to its word and letter; the other, for a broad construction, in harmony with what they believe to be its intention and in the light of changed conditions and progressive growth. This is not the place for the discussion of the tenets of these two schools of thought. It must suffice to say that the trend of events has been toward a broad construction and toward the enlargement of the powers of the Federal Government.

In the near future, great destinies will probably depend upon the relations between the several States and the Nation, as these relations may be interpreted in connection with this clause of the Constitution.

CHAPTER XIII.

THE AMENDMENTS TO THE CONSTITUTION.

Articles XI.-XII.

Article XI. of Amendments.

The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

It is one of the prerogatives of all sovereignties that they may not be sued without their own consent. This clause simply acknowledges that, in this respect, the sovereignty of the several States is absolute, in relation to suits brought by individuals. States may sue; but they may not be sued, by their own or by the citizens of other States or of foreign nations.

Article XII. of Amendments.

1. *The electors shall meet in their respective States, and vote by ballot for President and Vice-President.* This provision was designed to secure the discussion and selection of the men most fitted for these high offices. But since the coming in of the practice of pledging the Electors to vote for the candidates of their respective parties, this meeting and balloting is a mere matter of form. The whole of this Article takes the place of and supersedes the Third Clause of the First Section of Article II. of the Constitution.

One of whom, at least, shall not be an inhabitant of the same State with themselves. This provision lessens (but does

not prevent) the probability of both of these offices being filled by residents of the same State.

They shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President. This is to prevent the possibility of confusion and mistake.

And they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each. In order that, should any question arise, there may be a complete official record of the proceedings.

Which lists they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the President of the Senate. This clause provides for:—

First: The attestation and verification of the records and results of the election, that they may be indisputable;

Second: Their transmission, sealed, that they may not be tampered with, to the seat of the government, where their outcome is to be ascertained; and,

Third: Their delivery to the President of the Senate, by whom they are to be opened, in the presence of both Houses of Congress.

The practice, fixed by law, is: For the Electors of each State to meet at a place designated by the legislature of that State (which place is usually the capital) on the first Wednesday of December next after their election, and cast their votes for President and Vice-President. They then make and sign three certificates of all the votes given by them, which certificates they seal up, after certifying on each of them that it contains a list of the votes of their State for President and Vice-President respectively. The original of these certificates is taken charge of by a person appointed for the purpose, and

are by him delivered to the President of the Senate, at the seat of government, before the first Wednesday of January next succeeding. One copy is immediately mailed to the seat of government, addressed to the President of the Senate; and the other is deposited with the Federal court in the district in which the meeting of the Electors was held, in order that it may be preserved in event of accident or miscarriage of the others.

The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates. It is fitting that a proceeding of such moment should be conducted with the utmost dignity, and with every safeguard against unfairness.

And the votes shall then be counted. This proceeding takes place in the House of Representatives on the second Wednesday of the February next following the general election, and is executed by "tellers" appointed by the Senate and House of Representatives, for that purpose.

The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed. This is in accordance with a fundamental principle of our institutions — the rule of the majority. In most minor elections a plurality of the votes cast is sufficient for a choice; but in a case of so great importance as the election of a President or Vice-President, the Constitution wisely requires a majority of all the Electors appointed.

By *majority* is meant more than half of a number of votes: by *plurality*, more votes for one individual than for any other of three or more, but less than half of the whole number.

And if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list

of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. As the members of the House of Representatives are more directly representative of the people and responsible to them than is the Senate, the Constitution provides that in the event of a failure on the part of the people to express a choice for President, in the manner required by law, the House of Representatives shall select the President. This selection must be by ballot and from among the three persons who received the highest number of Electoral votes, thus excluding all persons who received no such votes and those who received but a small number of them.

But, in choosing the President, the votes shall be taken by States, the representation from each State having one vote. Each State has, thus, an equal voice in the selection of the President. This is in order to prevent the more populous States from exercising, through their larger representation, a preponderating sectional influence in the selection of a Chief-Magistrate for the whole country.

A quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. The framers of the Constitution deemed the selection of a President to be a matter of too grave importance to be ever decided by a simple *majority of a majority* of the States. So they provided that at least two-thirds of the States must be represented on the floor of the House of Representatives before such election may be proceeded with; and that a majority of *all* the States, not merely a majority of those represented at this selection, shall be necessary to the choice of the President.

Under this Amendment, but one President has been chosen

by the House of Representatives — John Quincy Adams, in 1825.

And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death, or other constitutional disability, of the President. It is evident that some provision should exist for filling the office of President in the event of a "deadlock" or other reason preventing the House of Representatives from selecting a President before the expiration of the term of the out-going President. The Vice-President is the logical choice in such a contingency, and the Constitution so provides.

2. *The person having the greatest number of votes as Vice-President shall be Vice-President, if such number be a majority of the whole number of electors appointed.* This provision refers to the opening and counting of the votes in Congress, and is the same as the procedure in the case of the office of President.

And if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice-President. It will be noticed that this provision differs in two particulars from that relating to the selection of the President: First, the Vice-President is to be selected from the *two* highest numbers on the list; and, second, he is to be chosen by the Senate, and not by the House of Representatives. There were a number of reasons for this last distinction, the chief being that the Vice-President presides over the deliberations of the Senate, in his capacity of President of the Senate, and it was thought but reasonable that this body should have the selection of the officer who was to preside over them.

A quorum for the purpose shall consist of two-thirds of the

whole number of Senators; and a majority of the whole number shall be necessary to a choice. As each of the States is equally represented in the Senate, this gives every State an equal voice in such selection of Vice-President.

3. *But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.*

Obviously, the Vice-President, who may be called upon to take the place of the President, should have the same qualifications for eligibility to office.

CHAPTER XIV.

THE AMENDMENTS TO THE CONSTITUTION.

Articles XIII.–XV.

Article XIII. *of Amendments.*

1. *Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.*

This article of amendment has, for those of the present generation, only a historical interest. Yet around the question of slavery, and in our own fair land, was waged, not many years since, one of the greatest wars the world has ever known. Slavery no longer exists in any Christian country, and its consideration need not be entered upon in a work treating of the civil government under which we are living.

2. *Congress shall have power to enforce this article by appropriate legislation.*

While the power to carry into effect any power granted by the Constitution may be considered as implied in the grant; yet, in some instances, of which this is one, a specific authorization is also given to Congress.

Article XIV. *of Amendments.*

1. *All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.* This clause defines what constitutes a citizen of the United States and of the

individual States. In Article IV. of the Constitution, provision is made that the citizens of each State shall be entitled to all the privileges and immunities of the citizens of the several States, but does not declare the properties of such citizenship. So that there may be no question concerning who are citizens, both of State and nation, the present clause prescribes that *all* persons born or naturalized in the United States, and subject to its jurisdiction, are citizens of the United States and of the State in which they have their legal residence. No distinction is made of color, race, creed or sex. Women and children are citizens, as well as men, even though they be denied the equal privilege of suffrage. While all naturalized citizens of the United States are entitled to equal civil rights with those who are native born; yet, under our naturalization laws, only those of Caucasian or African birth or descent may become naturalized. The privilege of suffrage is within the regulation of the several States, and may be denied to naturalized citizens at their discretion. But, by the next article of amendment, this must be for some other cause than race, color, or previous condition of servitude.

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. Former slaves having become full citizens of the United States and of the individual States in which they reside, are secured by this provision against any diminution of their privileges and immunities. The provision is, of course, general in its application; but, like the other articles of amendment passed at about the same time, it had its origin in the questions growing out of the abolition of slavery.

Nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws. Also

growing out of the abolition of slavery, this provision was designed to give the freedmen equal rights with white citizens. All of the articles of amendment after the XIIth had this object especially in view.

2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, representatives in Congress, the executive and Judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Under the provisions of the Fourteenth Article of Amendment, the liberated slaves acquired no right of franchise; nor was this privilege given them until the adoption of the Fifteenth Amendment, in 1870. The effect of the clause under present discussion is to repeal that portion of Article V. of the Constitution which provided for the representation of "three-fifths of all other persons," as that number should be determined by the census; and to require that former slaves (and other male citizens over the age of twenty-one) should not be included in the enumeration on which the representation of the respective States in the House of Representatives is based, unless such former slaves and other citizens are permitted to exercise the privilege of suffrage.

3. No person shall be a senator or representative in Con-



gress, or elector of President and Vice-President, or hold any office, civil or military, under the United States or under any State, who having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

This clause was designed to prevent the States lately in armed resistance to the authority of the United States from electing to office, from among the classes specified, those who had given their adherence to the cause of the seceding States. The disabilities imposed by this provision are, it will be noticed, entirely political in their nature. From time to time prior to the war with Spain, Congress made use of the authority given to remove such disabilities; until nearly all seeking the privilege were made eligible to office on taking anew an oath to support the Constitution. But many of the leaders of the Secession never made such application, and were, therefore, still unrelieved of their disabilities, when, in 1898, Congress removed all such disqualification as to persons then living.

4. *The validity of the public debt of the United States authorized by law, including debts incurred for payments of pensions and bounties for services in suppressing insurrection and rebellion, shall not be questioned.*

This was to provide against the possibility of the Southern members of Congress, in conjunction with disaffected Northern members, repudiating the war debt, should they ever gain control in Congress.

But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims, shall be held illegal and void. This provides against another phase of the same contingency as is contemplated by the last provision — the possibility of the Southern party attaining ascendancy in Congress and assuming the debts of the late Confederate States. Like many of the provisions growing out of the Civil War, the interest of this clause is mainly historical to those of the present generation.

5. *The Congress shall have power to enforce by appropriate legislation the provisions of this article.*

While this power is implied (as has been before noted) in the adoption of the Amendment itself, yet the addition of this “enforcement clause” removes any possible ground for question as to the exact scope of the amendment.

Article XV. of Amendments.

SECTION 1. *The right of the citizens of the United States to vote shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude.*

This Amendment was intended definitely to enfranchise the former slaves and place them in all respects before the law on an absolute equality with all other citizens of the United States and of the several States.

SECTION 2. *The Congress shall have power to enforce by appropriate legislation the provisions of this Article.*

Another instance of “making assurance doubly sure.”

CHAPTER XV.

TOPICAL ANALYSIS OF THE CONSTITUTION.

Note.—The Constitution is noticeable for its lack of unity in the arrangement of the powers granted, and their apportionment among the different departments of government. Reference to the legislative, judicial, and executive functions of government are so intermixed and so scattered that, in following the order of the text of the Constitution, it is difficult to obtain a clear and comprehensive view of any one department as separated and detached from the others. This is especially so as to the powers of Congress. But by a topical analysis, these fragmentary and detached references may be brought into their proper connections, and a clear and ordered comprehension of our governmental system, gained.

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CHAPTER XVI.

THE CABINET AND THE EXECUTIVE DEPARTMENTS.

The Cabinet.

That the administration of the Executive Branch of the Government may be more efficient, Congress has established nine subordinate, or auxiliary, departments: The Department of State, Department of the Treasury, Department of War, Department of Justice, Post-office Department, Department of the Navy, Department of the Interior, Department of Agriculture, and Department of Commerce and Labor. Each of these Departments is subdivided into a number of "Bureaus," and to these, respectively, is referred all routine business relating to the particular branches of the public service.

The Heads of the Departments (who are appointed by the President, subject to confirmation by the Senate, and whose resignations may be demanded at his pleasure) form a body of confidential official advisers to the President, and are known as "the Cabinet." In the order in which they rank, they are: Secretary of State, Secretary of the Treasury, Secretary of War, Attorney-General, Post-master General, Secretary of the Navy, Secretary of the Interior, Secretary of Agriculture, and Secretary of Commerce and Labor. These offices are not specifically provided for in the Constitution, but were erected by Congress under the general provisions of that instrument.

The members of the Cabinet, who may not be members of either House of Congress, meet with the President on Tuesdays and Fridays, and at such other times as he may require. They advise him on such subjects as he may designate, which

advice he may disregard at his pleasure, and are responsible to him for the conduct of their several departments.

In the case of the death, resignation, or constitutional disability of both President and Vice-President, the members of the Cabinet succeed to the duties of the presidential office in the following order: Secretary of State, Secretary of the Treasury, Secretary of War, Attorney-General, Postmaster-General, Secretary of the Navy, Secretary of the Interior. The Secretary of Agriculture and the Secretary of Commerce and Labor are not included in the line of presidential succession, their departments not having been created until after the passage of the act (1886) providing for such order of succession.

• The Department of State.

This department is under the direction of the Secretary of State, and is divided into several branches. There are three Assistant Secretaries of State.

The State Department has charge of:—

1. The diplomatic intercourse with foreign nations, the making of treaties, and the instruction and guidance of our Ambassadors, Ministers, and Consuls;
2. The safe-keeping and publication of all laws and resolutions of Congress, and the safe-keeping of all treaties;
3. The issuance of pardons and of passports;
4. The custody of the great seal of the United States, which seal is affixed to all proclamations and commissions, and to many other important documents, signed by the President;
5. Such other duties as are assigned to it.

The Diplomatic Service. The officers of this service represent the United States in its diplomatic intercourse with other governments. Their chief functions are: the negotiation of

treaties, the protection of American interests abroad, and the maintenance of friendly relations with the countries to which they are accredited. In the order of their rank, they are: Ambassadors extraordinary and plenipotentiary, envoys extraordinary and ministers plenipotentiary, and ministers resident. The duties of these are similar, the difference being in their titular rank and official precedence. An *ambassador* is entitled, on request, to personal interviews with the head of the nation to which he is accredited.

By the law of nations, foreign Ministers, the secretaries and attachés of their legations, and even their interpreters and servants, enjoy special rights and privileges not accorded to other foreign persons. A Minister is not subject to the police regulations of the country to which he is accredited; he cannot be sued in its courts; nor can legal processes be enforced against him. Of course, were these privileges grossly abused, the offender would, on complaint from the proper authority, be immediately recalled by his government. Ministers are not permitted to engage in commercial pursuits.

If a Minister, or other member of a legation, is guilty of any impropriety in his conduct, he may at once be expelled from the country without endangering the friendly relations of the two nations. The head of a nation is under no obligation to receive as the representative of another government a person who is obnoxious to him personally or to the government of which he is chief-executive. It is customary for the government of one country, before accrediting a minister to another, to ascertain if the proposed minister will be acceptable to the government to which he is to be sent.

For many purposes, the residence of a foreign Minister is considered to be the territory of the nation which he repre-

sents, and to be subject to the laws of that country, and not to those of the country in which it is located.

The Consular Service. The consular service is made up of a small number of consuls-general and several hundred consuls.

The chief duties of these officers are: the enforcement of commercial laws; the safe-guarding of American sailors and American ships; the protection of American citizens, the certification of legal documents; and the collection of information of public interest, in relation to commerce and manufactures; which information is made public through the Department of Commerce and Labor.

The Department of the Treasury.

In the hands of the Treasury Department is the financial business of the Nation. The vast business of this department is divided among branches too numerous to be treated of in detail. The chief functions of the department are: the collection and disbursement of the revenues, the coinage of money, and the custody of all government funds. It audits the accounts of the other departments; has charge of the secret-service, the life-saving service, the custom-houses, mints, and subtreasuries; and has a general supervision over National Banks. There are three Assistant Secretaries of the Treasury. Other important officers are: the Treasurer of the United States, Register of the Treasury, Comptroller of the Currency, and Commissioner of Internal Revenue.

The Department of War.

The War Department has, under the direction of the President, charge of the land forces of the Nation. The support

and operation of armies; the improvement of harbors and of navigable rivers; the care and maintenance of forts, armories, arsenals, and ordnance; the superintendence of the Military Academy at West Point; and many other important concerns are under its control. Through the Bureau of Insular Affairs, it supervises the government and the schools of the Philippine Islands. There is one Assistant Secretary of War.

The Military Academy of the United States is located at West Point in New York. It educates and trains young men for positions as officers of the regular army. The students at this school are called "cadets." Each Member of Congress appoints one cadet every four years. The President has the appointment of one cadet from each Territory, one from the District of Columbia, and of a number of "cadets at large." But no student is received as a cadet unless between the ages of seventeen and twenty-two, and after he has passed a satisfactory mental and physical examination. The term of study is four years. A sum of money sufficient to cover the expenses of each cadet is allowed by the Government. Each officer graduated from the Military Academy must serve at least two years in the regular army.

The Department of Justice.

This department is presided over by the chief law-officer of the Government, the Attorney-General, who is, also, the legal adviser of all the departments of government. He is assisted by the Solicitor-General, and by other assistants. He conducts suits to which the United States is a party; gives written opinions and advice, when requested; supervises the district attorneys and marshals of the District Courts of the United States; examines land titles in cases of proposed purchase by the United States; makes an annual report to Congress; and performs various other duties required by law.

The Post-office Department.

This department has charge of the mails; their carriage and delivery; the establishment of post-offices; the appointment of postmasters; and all other matters pertaining to postal affairs. This department comes into closer contact with the body of the people than does any other; and is one of the most important branches of the government. There are nearly one hundred thousand post-offices in the United States. It costs, at the present day, more than twice as much money to run the Post-office Department as was required in 1861 to defray all the expenses of the government of the United States. There are four Assistant Postmasters-General, in charge of various branches of the department.

The First Assistant Postmaster-General has charge of the free delivery of mail matter in cities and of rural free-delivery routes. He directs the post-office money-order business, has charge of the dead-letter office, and furnishes stationery and supplies to all the post-offices in the United States.

The Second Assistant Postmaster-General lets the contracts for carrying the mails and arranges the schedules for the arrival and departure of mails from each post-office. The foreign mail service also comes under his care.

The Third Assistant Postmaster-General has charge of the financial affairs of the department and of the registered mail service. He receives the reports and settlements of postmasters; and issues stamps, stamped envelopes, and postal cards.

The Fourth Assistant Postmaster-General looks after the establishment of new post-offices, and has charge of the post-office inspectors and of the investigation of irregularities in the mail service.

There are four classes of post-offices, and of postmasters. Postmasters of the first, second, and third class are appointed

by the President for terms of four years. Their salaries depend upon the value of the stamps *sold* at their post-offices. Postmasters of the fourth class are appointed for an indefinite term by the President and are removable at his pleasure. Their compensations depend upon the value of the stamps *cancelled* at their offices.

The Department of the Navy.

To the Navy Department is entrusted all that appertains to naval affairs: the control of war-vessels, naval operations, and naval forces; and the general supervision of naval and cognate subjects. It has direction and control of the National Observatory at Washington, and of the Naval Academy at Annapolis; and of the preparation and issuance of charts, maps, and sailing directions for seamen; together with many other functions, under various Bureaus. There is one Assistant Secretary of the Navy.

The Naval Academy is organized and administered on a plan somewhat similar to that of the Military Academy. Its students are called "midshipmen." Like the cadets at West Point, they are appointed by Congressmen or the President. Applicants for admission must be between the ages of sixteen and twenty and must pass a mental and a physical examination. The length of the course is six years — four at the Academy and two at sea.

The Department of the Interior.

This department was formerly known as the Home Department. It has charge of a vast range of domestic concerns not under the administration of the other departments. Among these are pensions, public lands, Indian affairs, patents, and

education. There are two Assistant Secretaries of the Interior.

The Department of Agriculture.

This is a comparatively new department, having existed only since 1889. It has charge of matters appertaining to the agricultural interests of the country; conducts experiments relating to farming and the raising of live stock; distributes seeds; and the like. One of its principal and most important functions is the inspection of live stock for exportation and for interstate commerce. The *weather bureau* is included in this department. There is one Assistant Secretary of Agriculture.

The Department of Commerce and Labor.

This department, erected in 1903, promises to become one of constantly growing importance. Included in its functions are: the promotion and development of commerce, manufactures, fishing and the like; the promotion of the interests of workingmen; the collection and publication of statistics in relation to these and other matters; the maintenance of the *lighthouse* and *steamboat inspection services*; the taking of the *census*; and many other matters of general concern. Under its supervision are the Bureau of Immigration, the Bureau of Corporations, the Interstate Commerce Commission; and the Civil Service Commission, which has been considered in Chapter VIII. of Part II.

The Bureau of Corporations has become a very important factor in the great problems involved in the relations between the government and the gigantic corporations and trusts by which such a large proportion of our commerce, manufacturing, and transportation are carried on. Its most prominent

function is the investigation of corporations engaged in Interstate commerce, with the exceptions of railroads and steamship lines, which are under the supervision, in relation to the laws, of the Interstate Commerce Commission.

The Interstate Commerce Commission. This Commission was created by Congress in 1887 and reorganized in 1906. It is made up of seven Commissioners appointed by the President for terms of six years. Its chief province is to investigate and decide questions arising under the Interstate Commerce laws, to inquire into the violations of those laws, and to bring cases of such violation before the Courts of the United States. The jurisdiction of the Interstate Commerce Commission is confined to commerce and transportation between the several States, and to foreign countries, as Congress has no power over legislation in regard to commerce exclusively within the limits of any State.

The principal legislation passed by Congress, and now in force, with reference to Interstate commerce and transportation, provides:—(1) that freight and passenger rates shall be reasonable, and shall be uniform in their application; (2) that charges for a part of a distance shall not be greater than for the whole distance; (3) that railroads shall not agree to divide up (or pool) their earnings or their business; (4) that cars and locomotives shall be equipped with air brakes and automatic couplers; (5) that common carriers shall publish lists of their rates and charges, which must be impartial; (6) that no rebates shall be given; and (7) that, on complaint that rates are unjust or unreasonable, the Interstate Commerce Commission may prescribe rates which, in their judgment, are just and reasonable.

GLOSSARY.

Accomplice. A confederate; an associate in crime, but not actually present at its commission.

Acknowledgment.

1. A formal avowal, or acknowledgment, of one's signature to a written instrument, before a proper officer, to give it validity.
2. The officer's certificate on such instrument, that such formal acknowledgment, or declaration, has been made.

Acquittal. A judicial setting free from the charge of an offence, as by the verdict of a jury.

Act. A statute; a law passed by legislative authority.

Adjournment. The interval during which a public body postpones business.

Administrator. A person legally authorized to administer the estate of a deceased individual, dying without a will.

Admiralty. The jurisdiction having cognizance of maritime affairs.

Affidavit. A signed declaration in writing, sworn to by the party making it, before an authorized officer.

Affirmation. A solemn declaration made under the penalties of perjury, by a person who conscientiously declines to take an oath.

Alien. One of foreign birth and citizenship.

Alienation. Parting with; a legal conveyance of property.

Allegiance. The duty of a citizen to his government.

Ambassador. A diplomatic representative of the highest rank.

Amendment. An alteration in a bill or motion, by adding, changing, or striking out.

Answer. In pleadings, a counter-statement of facts.

Appeal. The removal of a cause, or case, from a lower to a higher court.

Appellate jurisdiction. Authority having cognizance of suits and cases on appeal.

Arraignment. The act of calling a prisoner before a court to answer to an accusation.

Arrest. The seizure or apprehension of a person by the authority of law.

Article. A distinct part of a writing or instrument consisting of two or more particulars.

Attainder. Extinction of civil rights, and the forfeiture and corruption of blood which arises on conviction of certain crimes.

Attorney. An officer of a court of law, legally qualified to prosecute and defend actions in such court.

Bail. The security given for the appearance of a prisoner in court. The persons who become responsible for the appearance of such prisoner.

Ballot. A ticket or written vote. The act of voting by ballot, or written ticket.

Bankrupt. A person unable to pay his debts.

Bi-cameral. Having two chambers.

Bill. The form or draft of a law, presented to a legislature, before its enactment.

Bona-fide. With good faith.

Bond. A written obligation under seal to pay a fixed sum in a certain contingency.

Bounty. A premium offered to induce men to enlist in the army or navy.

Breach of the Peace. A violation of the public peace, as by riot or affray.

By-law. The law of a city, town, or private corporation.

Cabinet. A collective body of the chief advisers of the head of state or nation.

Capital crime. A crime punishable by death.

Census. The official registration of the inhabitants of a country.

Cession. A yielding, or surrender of rights or property.

Chancery. A court of equity, granting relief in cases where there is no remedy in the common law.

Charter. An instrument, executed with form and solemnity, granting powers, rights, and privileges.

Chattel mortgage. A mortgage on goods, furniture, or other movable things.

Colony. A body of people transplanted to a distance from their mother country, but remaining subject to the jurisdiction of the parent state.

Commerce. The exchange of goods or commodities between different places or countries.

Commission.

1. A writing from proper authority, given to a person as his authority for the exercise of certain powers, or the performance of certain duties.

2. A number of persons associated in an office or trust.

Commitment. An order for confining in prison.

Common law. The body of rules, principles, and customs handed down from our ancestors, and by which courts have been governed in their judicial proceedings; the unwritten law.

Commonwealth. A popular or representative government; a free state.

Commutation. The change of a penalty or punishment from a greater to a less.

Complainant. One who prosecutes by complaint.

Complaint. A charge against an alleged offender, made by a private person or complaining witness; an accusation.

Concurrent. Joint and equal.

Congeries. A collection of several bodies or particles in one aggregate.

Constable. An officer of the peace, empowered and enjoined to execute the warrants and other processes of judicial officers.

Constitution. The fundamental law of a country. A written instrument embodying that fundamental law.

Constructive treason. Treason not directly proven, but inferred.

Consul. A person commissioned by his government to reside in a foreign country, where he represents his government in certain capacities, mainly commercial in nature.

Contraband. Prohibited merchandise or traffic.

Contract. An agreement between two or more competent persons to do or to refrain from doing, for a lawful consideration, some proper act or acts.

Conviction. The act of convicting by the verdict of a jury and the judgment of a court.

Co-ordinate. Of the same rank; not subordinate.

Copy-right. The sole right which an author has in his own original literary productions.

Coroner. An officer whose duty it is to summon a jury for the purpose of inquiring into the cause of sudden and suspicious deaths. In certain contingencies he acts as sheriff.

Corporation. A body politic or corporate, composed of a number of individuals, formed and authorized by law, to act as a single person, within specified limits.

Corruption of Blood. Inability to inherit or to hold lands, or to transmit them by descent to heirs.

Counsel. One who gives legal advice professionally.

Court. The persons or judges assembled for hearing and determining causes.

Court-martial. A court composed of naval or military officers, for the trial of offenders against naval and military laws and regulations.

Crime. An offence against public law, punishable by a penalty.

Cross-examination. The interrogation of a witness on behalf of the party opposing the one who called him.

Deed. An instrument under seal, in due form of law, conveying title.

Defendant. A person against whom suit is brought in court.

Demurrer. An admission of the facts as stated by the opposite party, but a denial of the legal consequences claimed to attach to them.

Docket. An abstract or summary entered in a book; as, a docket of judgments.

Duress. Compulsion induced by fear or restraint.

Duty. A sum of money required by government to be paid on the importation or consumption of goods.

Elector.

1. One who has the right to vote.

2. One chosen to cast the vote of his constituency for President and Vice-President of the United States.

Emancipation. The act of setting free from slavery.

Eminent domain. The right of a government to take the private property of its citizens for public uses, at a fair valuation.

Enactment. The passing of a bill into a law.

Engross. To write a correct copy in legible characters, for preservation.

Envoy. A person deputed by government to transact business with a foreign government.

Equity. A branch of remedial justice by which relief is afforded to suitors in the courts of equity, or chancery.

Estate. An interest in property of any kind.

Evidence. The declarations of witnesses in court. Also papers and other articles admitted as evidence.

Excise. An inland duty or impost, laid on goods produced and consumed in a country. Also, a license to deal in certain commodities.

Execution. A judicial writ authorizing an officer to carry a judgment into effect. The signing and sealing a legal instrument, as a deed or mortgage.

Ex officio. By virtue of office.

Ex post facto. Done after another thing.

Extradition. Delivery of accused fugitives by one nation to another nation; or their delivery by one State to another State.

Felony. A heinous crime.

Fine. A pecuniary penalty imposed by a court, as a punishment.

Foreclosure. The process of enforcing collection of a mortgage.

Forfeiture. The losing of some right, privilege, or estate, by an offence, crime, breach of condition, or other act.

Franchise. A peculiar right or privilege granted by a government to an individual, as, the right to vote.

Government. The persons who administer the laws of a state or nation. The system of polity in a state or nation.

Grand jury. A body of men chosen in form of law, to ex-

amine into the grounds of accusations; and, when cause is shown, to find indictments, to be presented to the court.

Guardian. One who is chosen or appointed to take charge of the person and estate of a minor or other incompetent person.

Habeas corpus. A peremptory writ to produce a person before a court or judge.

High seas. The open ocean. The waters of the sea, more than three miles from the shore.

Immunities. Exemptions, liberties.

Impeachment. A written accusation brought against a civil officer of the government, for crime, corruption, or misfeasance in office.

Imports. Goods and chattels brought from foreign countries.

Imposts. Taxes or duties levied by government, more especially on goods imported.

Inalienable. Not transferable.

Indictment. A formal written accusation of crime or misdemeanor, made by a grand jury.

Initiative. A method of obliging a legislative body to submit to popular vote the draft of a bill which a certain number of people have petitioned to have enacted.

Injunction. A writ of prohibition issued by a court, to prevent the commission of an act or acts.

Inquest. A judicial inquiry. An official examination.

Instrument. A writing by which some fact is recorded for evidence, or some right conveyed.

Issue. A point in controversy.

Jeopardy. Exposure to death, loss, or injury.

Judgment. A judicial determination of a court or judge, on the facts and issues tried in a cause.

Judiciary. The system of courts of justice in a government.

Jurisdiction. The power or right of exercising authority.

Jury. A body of men, selected in a manner prescribed by law, to inquire into and try, under oath, any matter of fact; and to find a verdict on the evidence given them in the case.

Larceny. Stealing. The unlawful taking, carrying away, and appropriating the personal property of another.

Law. A rule of action, prescribed by lawful authority, commanding what is right and prohibiting what is wrong.

Law of Nations. The rules that regulate the mutual intercourse of states and nations.

Lease. The temporary letting of real estate by the owner to the use of another.

Legislature. The body of men who enact or repeal the laws of a state or nation.

Libel. A published defamatory writing.

License. Authority or liberty given to do or forbear any act. Document granting such authority or permission.

Lien. A legal claim on property, for which the property is held liable.

Magistrate. A public civil officer, invested with some executive functions.

Majority.

1. A number more than half.

2. The full age required by law for the right to manage one's own affairs, and to vote.

Mandamus. A writ issuing out of a court of competent jurisdiction, requiring the performance of some act specified therein.

Maritime jurisdiction. Relating or pertaining to the sea or ocean.

Marque and Reprisal. A commission granted by a govern-

ment to a subject or citizen of a country to pass its limits and make reprisals and captures, in relation to an enemy.

Marshal. A civil officer in attendance at the United States courts and performing such duties as usually devolve on sheriffs in State courts.

Minister. The representative of a government at a foreign court.

Minority. The smaller number. The state of being under age.

Misdemeanor. An indictable crime less than a felony.

Mortgage. A conditional conveyance of property, usually to secure a debt.

Municipality. A municipal district; a borough, city, or incorporated town or village.

Nation. The whole of a people or country united under one government.

Naturalization. The process by which an alien becomes a citizen.

Null and void. Of no legal or binding force or validity.

Nullification. A rendering void and of no effect.

Oath. A solemn declaration on the Scriptures, or appealing to God for the truth, of what is stated, taken before a court or competent officer.

Officer. One lawfully invested with a civil or military authority.

Ordinance. A rule established by authority.

Overt. Public or open.

Pardon. An act of grace or mercy from the sovereign authority, remitting the penalty for a crime.

Parole. A verbal or unwritten promise.

Passport. Written official permission to travel, usually in foreign countries.

Patent. A writing, given by proper authority, and duly authenticated, securing to a person, for a term of years, the exclusive right to an invention.

Penalty. The suffering in person or property which is annexed by law or judicial decision to the commission of a crime or offence, as a punishment.

Piracy. Crime or depredations on the high seas.

Plaintiff. The party who commences a suit in court.

Pleadings. The facts which constitute a cause of action, and the defence to it, stated in writing, in legal form.

Plenipotentiary. A person invested with full power to transact any business, usually applied to an ambassador or minister.

Polity. The form or constitution of civil government of a state or nation.

Preamble. The introductory part of a statute or constitution.

Prerogative. An exclusive or peculiar privilege.

Presentment. The notice taken by a grand jury of any offence from their own knowledge or observation; an indictment must be framed on such presentment before the party presented can be called upon to answer to the accusation.

Prima facie. At first view or appearance.

Probate. Official proof; proof of the validity of a will.

Process. Course of legal proceedings in a cause.

Prosecution. The institution or commencement and continuance of a criminal case.

Pro tempore. For the time being, temporary.

Quorum. Such a number of members or officers as is legally competent to transact business.

Rebellion. Open revolt against the authority of government.

Recess. Remission or suspension of business.

- Referendum.* The referring a law passed by the legislature to the people, for their ratification or rejection.
- Replevin.* An action or remedy at law for recovering the possession of goods and chattels wrongfully taken or withheld.
- Reprieve.* The temporary suspension or postponement of the execution of the sentence of death on a criminal.
- Riot.* A tumultuous disturbance of the peace by three or more persons acting together.
- Sentence.* The judgment pronounced by a court or judge upon a convicted criminal.
- Sergeant-at-Arms.* That officer of a legislative body who serves processes, and executes the orders of the body.
- Sheriff.* The chief ministerial officer of a county.
- Slander.* Defamation by word of mouth. Actionable calumnious words.
- Sovereignty.* Supreme power.
- Statute.* An act or law passed and completed by the law-making power.
- Subpoena.* A writ summoning a witness into court.
- Suffrage.* A vote.
- Suit.* Legal application to a court for justice.
- Summons.* A writ citing a defendant to appear in court at a certain time, to answer the claim or charge against him.
- Surrogate.* An officer who presides over the probate of wills, and the settlement of the estates of deceased persons.
- Tax.* A sum of money assessed against persons or property for the support of government.
- Testimony.* The declaration of a witness in court.
- Tonnage.* A tax or duty on vessels, in proportion to their cubical contents.

Treason. The levying of war against the government; or adhering to its enemies, giving them aid and comfort.

Treaty. An agreement between two or more nations, executed in due and legal form.

Trial. The examination of a cause in controversy, before a competent tribunal.

Venue. The place where an action is laid.

Verdict. The decision of a jury, as reported to the court, in the trial of a civil or criminal cause.

Veto. The power possessed by the executive branch of a government to negative measures which have been passed by the legislative branch.

Warrant. A writ authorizing the arrest of a person.

Will. A legal declaration of the manner in which a person wishes his property disposed of after his death.

Witness. A person who testifies in court as to his knowledge of the facts in issue.

Writ. An instrument in writing, issued by a competent court or magistrate, commanding the performance or non-performance of some act by the person to whom it is directed.

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